

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

UNITED STATES OF AMERICA, ) DOCKET NO. 3:10-cr-238  
                              )  
Plaintiff,                )  
                              )  
vs.                        ) VOLUME I of IV  
                              )  
PARKER ANTRON COLEMAN, )  
                              )  
Defendant.                )  
                              )

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TRANSCRIPT OF TRIAL PROCEEDINGS  
BEFORE THE HONORABLE ROBERT J. CONRAD, JR  
UNITED STATES DISTRICT COURT JUDGE  
AUGUST 13, 2012

APPEARANCES:

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Charlotte, North Carolina

I N D E X

AUGUST 13, 2012; VOLUME I OF IV

	<u>GOVERNMENT WITNESSES:</u>	PAGE
3	ALVIS BERGS	
4	Direct Examination By Mr. Kaufman	35
5	Cross Examination By Mr. Butler	43
5	Redirect Examination By Mr. Kaufman	48
6	CHRIS NEWMAN	
7	Direct Examination By Mr. Kaufman	49
8	Cross Examination By Mr. Butler	71
8	Redirect Examination By Mr. Kaufman	84
9	Recross Examination By Mr. Butler	89
9	JAMES BRYANT	
10	Direct Examination By Mr. Kaufman	91
11	Cross Examination By Mr. Butler	121
11	Redirect Examination By Mr. Kaufman	135
12	Recross Examination By Mr. Butler	138
12	DWAYNE SPEARS	
13	Direct Examination By Mr. Kaufman	139
14	Cross Examination By Mr. Butler	157
14	Redirect Examination By Mr. Kaufman	174
14	Recross Examination By Mr. Butler	181
15	DARREN SOLOMON	
16	Direct Examination By Mr. Kaufman	182
16	Cross Examination By Mr. Butler	192
17	* * * * *	
18	Pretrial Motions	4
18	Court's Preliminary Instructions	12
19	Opening Statements:	
19	Mr. Kaufman	18
20	Mr. Butler	32
20	* * * * *	

## E X H I B I T S

**GOVERNMENT EXHIBITS:**

	<u>NUMBER</u>	<u>ADMITTED</u>
2	1a-d . . . . .	37
3	2a-c . . . . .	40
4	5 . . . . .	63
5	6a . . . . .	58
6	6b-e . . . . .	61
7	7a-d . . . . .	69
8	9a-u . . . . .	152
9	10a . . . . .	149
10	14g . . . . .	145
11	14h-l . . . . .	147
12	14m-p . . . . .	147
13	14a . . . . .	150
14	14b-e . . . . .	151
15	15 . . . . .	97
16	15a . . . . .	105
17	16 . . . . .	97
18	16a . . . . .	105
19	17a . . . . .	112
20	17b-c . . . . .	114
21	20 . . . . .	188
22	22j . . . . .	37
23	22a . . . . .	39
24	22g . . . . .	60
25	22t . . . . .	117
26	28a . . . . .	120
27	32a . . . . .	108
28	41a . . . . .	88
29	41b . . . . .	157
30	42a . . . . .	190
31	42b . . . . .	192

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1                   P R O C E E D I N G S

2 AUGUST 13, 2012, COURT CALLED TO ORDER 12:30 p.m.:

3                   (Defendant Parker Antron Coleman present.)

4                   THE COURT: Good afternoon.

5                   ALL COUNSEL: Good afternoon, Your Honor.

6                   THE COURT: We're here in the matter of United  
7 States v Parker Coleman for trial. A number of pretrial  
8 matters that are still unresolved.

9                   Mr. Butler filed a motion to reopen jury selection  
10 for the purposes of exercising a peremptory strike with  
11 respect to a juror who had indicated in answer to questioning  
12 that he was familiar with the AUSA, had seen him at a park on  
13 several occasions where their children played; didn't have any  
14 other interactions with him. And Mr. Butler indicated that he  
15 had intended to strike this juror, but for reasons stated in  
16 his motion, did not.

17                  Mr. Butler, I'm going to deny that request. I  
18 satisfied myself that this juror's responses indicated that he  
19 could set aside any -- what appeared to me to be minimal  
20 contact with the AUSA and decide this case fairly. I think  
21 the government and the defense had a fair opportunity to use  
22 their peremptories and I'm not inclined to reopen the  
23 selection process.

24                  MR. BUTLER: If Your Honor, please.

25                  THE COURT: Yes, sir.

1                   MR. BUTLER: For the record, Your Honor, I would  
2 just like to make it clear that my confusion was from the fact  
3 that we had passed five people and we needed seven additional  
4 jurors, and we had replaced the original 14 with another 14.  
5 And the process was a little unusual for me. And to the  
6 extent that I was taken back, so to speak, from the standpoint  
7 of, I couldn't determine who was gonna be left.

8                   There is a method to -- I think -- to my jury  
9 selection in trying to get the people that my client and I  
10 have talked about, and I had circled that particular  
11 individual. But I was so confused about who would be where in  
12 the jury box, that it almost felt like we didn't really have  
13 input on who the jurors were, because --

14                  THE COURT: I'm sorry you felt that way. We -- I've  
15 had -- I think I've had several trials with you. We've used  
16 the same jury selection process every time, and you've never  
17 expressed any confusion about that process in the past. We  
18 used the exact same process in this trial that we've had in  
19 other cases that you've tried in my court. And so I thought I  
20 was pretty clear on the methodology we were going to use. And so  
21 again, it's the same methodology we've always used. And so  
22 I'm not so sure -- I'm not so sure I understand your  
23 confusion. But I take you at face value that you were  
24 confused.

25                  But in any event, the bottom line is, I think we've

1 chosen a jury comprised of individuals who have indicated  
2 their willingness to be fair and keep an open mind and judge  
3 the case based upon the evidence and the instructions, and  
4 so...

5 MR. BUTLER: Of course, Your Honor, the last trial  
6 we had was about five years ago.

7 THE COURT: No.

8 MR. BUTLER: Oh yes.

9 THE COURT: Was it that long ago?

10 MR. BUTLER: Yes, it was so.

11 THE COURT: Well --

12 MR. BUTLER: But in any event, that's for the  
13 record. Thank you.

14 THE COURT: All right. Thank you.

15 With respect to the Government's 404(b) notice, I  
16 think I indicated earlier that I was inclined to permit the  
17 government to put in the defendant's prior conviction in  
18 Mississippi. Because I do think it's relevant to show the  
19 connection between the defendant and a co-conspirator, his  
20 probation officer -- his probation officer at the time of the  
21 alleged conspiracy. Having studied the matter in more detail,  
22 and the responses of the attorneys, I'm confirmed in that  
23 view.

24 And, so, Mr. Kaufman, I'll allow you to introduce  
25 the prior conviction in Mississippi for 6.7 kilograms of

1 marijuana.

2 I'm not going to let you go into the discharge of  
3 the firearm in 2008. I don't believe that comes within the  
4 more -- what I perceive to be the more restrictive approach of  
5 404(b) that the Fourth Circuit seems to be taking in *McBride*,  
6 *Johnson*, *Hawkins* and other cases. I don't believe that it  
7 meets the time matter, pattern of conduct limitations of those  
8 cases. And so, yes, as to the prior conviction. No, as to  
9 the discharge of a weapon.

10 Also looked at the --

11 MR. BUTLER: If Your Honor, please.

12 THE COURT: Yes.

13 MR. BUTLER: For the record, we would object to his  
14 prior conviction.

15 THE COURT: All right. Then I've also looked at the  
16 motion in limine filed with respect to the three conversations  
17 between Milton Adams and Stephanie Peppers. The government  
18 seeks to introduce them as 801(d)(2)(e) statements. The  
19 defense objects that they're hearsay, not admissible for any  
20 proper purpose.

21 I do think the statements of Adams are -- as  
22 proffered, as I've studied the transcript, would come in as  
23 801(d)(2)(e) statements. I think the statements of Peppers,  
24 though not a conspirator at the time of phone calls, would be  
25 admissible for the limited purpose of putting in context the

1 statements of Adams. So I'm going to allow the government to  
2 play the recordings that they have indicated in their motion  
3 in limine.

4 MR. BUTLER: Note our objection, Your Honor.

5 THE COURT: Yes, sir.

6 MR. BUTLER: And if I didn't object to the ruling on  
7 jury reopening --

8 THE COURT: Oh, I think you've more than preserved  
9 that.

10 MR. BUTLER: Thank you very much.

11 THE COURT: Mr. Kaufman.

12 MR. KAUFMAN: Your Honor, thank you. If I just may  
13 comment on a couple of things.

14 I take in heed of Your Honor's comments in the past  
15 about expediting the presentation of evidence. At this point  
16 I don't anticipate presenting our case in chief meaning,  
17 wiretap recordings with Mr. Adams and Ms. Peppers.

18 With regard to the prior conviction of Mr. Coleman.  
19 As we mentioned in a supplemental filing last week, we also  
20 intend, consistent with that prior conviction, Ms. Peppers  
21 will be testifying that she met Mr. Coleman because she was  
22 his probation officer for that offense. And the nature of  
23 that offense helped to influence her decision to provide him  
24 seed money to restart the conspiracy. And in fact, she  
25 believed he knew the business based on that prior conviction.

1 And in fact, herself became a co-conspirator actively  
2 distributing marijuana, acting as courier and as a  
3 facilitator.

4 THE COURT: Very well.

5 MR. KAUFMAN: Thank you, Your Honor.

6 THE COURT: Mr. Butler, I believe you filed a motion  
7 to compel discovery today.

8 MR. BUTLER: Yes, Your Honor.

9 THE COURT: It appears to me that it deals with --  
10 you want the government to provide a copy of a tape that  
11 depicts a potential witness and the defendant engaged in  
12 certain sexual acts. And the basis for that production is  
13 that you believe that a tape was shown to another person who  
14 became a cooperating witness, in part, as a result of that  
15 tape.

16 All that seems to be grist for cross-examination. I  
17 don't know that I understand the relevance of the -- or the  
18 necessity of compelling discovery. It seems like if you have  
19 a basis for asking those kind of bias questions on cross,  
20 you're entitled to do that. But I'm not going to compel the  
21 government to produce a tape.

22 MR. BUTLER: Very well, Your Honor. Note our  
23 objection. We have, we believe, a good faith basis for asking  
24 for the tape. We -- based on the information and belief that  
25 was relayed by Ms. Peppers to a third person, she was -- she

1 indicated that she was shown the tape. That it depicted  
2 Mr. Coleman and Ms. Shaunda McAdoo.

3 THE COURT: I think the relevance would be right  
4 that it shows a reason for Ms. Peppers to be testifying  
5 against Mr. Coleman.

6 MR. BUTLER: Yes, sir.

7 THE COURT: And so it seems like that's proper on  
8 cross-examination.

9 MR. BUTLER: And the reason I'm asking for it, Your  
10 Honor, is because I'm anticipating that Ms. Peppers may have a  
11 lapse of memory. She may not remember.

12 THE COURT: Well, that would be extrinsic anyway.  
13 You're entitled to ask, but you wouldn't get very far on  
14 wanting to show any such tape to the jury. And so I think you  
15 may have a basis for inquiring on cross-examination, but  
16 that's where it will end.

17 MR. BUTLER: Very well.

18 MR. KAUFMAN: Your Honor, I just note for the record  
19 that we have made discovery of 10 boxes of material available  
20 to Mr. Butler over the last couple years. In fact, I stayed  
21 late on Friday night to provide an additional 17 disks  
22 containing downloads of phones which I think may include the  
23 material that Mr. Butler's referencing.

24 I should note that our understanding from my review  
25 of the numerous reports, is, that there was a reference in a

1 debrief with Ms. Peppers that she saw on one of Mr. Coleman's  
2 phones, I believe it was photographs with women and calls with  
3 women and she confronted him with it.

4                 With regard to sex tapes, I'm not aware of her  
5 having seen any such sex tape.

6                 We do from Ms. McAdoo's phone, which we don't  
7 believe Ms. Peppers ever saw -- we believe that there was some  
8 sort of sexual content on a phone. It was unclear who the  
9 participants were. But that's the long and short of it, Your  
10 Honor.

11                THE COURT: All right. I've heard more than I think  
12 I need to on this subject. To the extent it's relevant to  
13 show bias on cross, I'll give you some leeway, Mr. Butler.

14                Any reason we shouldn't call the jury at this time?

15                MR. KAUFMAN: We're ready, Your Honor.

16                THE COURT: We're missing --

17                COURT SECURITY OFFICER: One.

18                THE COURT: Yeah, I guess I told the jurors to be  
19 here at 1:00. I don't think we have a full complement, so  
20 we'll stand in recess until 1:00.

21                (Recess at 12:45 p.m. until 1:00.)

22                THE COURT: We ready for the jury?

23                MR. KAUFMAN: Yes, Your Honor.

24                MR. BUTLER: Yes, Your Honor.

25                THE COURT: Call the jury.

1 ||| (The jury was returned to the courtroom.)

2 THE COURT: I was going to say good morning, but I  
3 shouldn't do that. Good afternoon. Appreciate you all coming  
4 so promptly. And at this point, Madam Clerk, would you  
5 impanel the jury.

6 || COURT CLERK: (Complies.)

11 THE COURT: So now that you've been sworn and  
12 impaneled, I want to give you some preliminary instructions to  
13 help guide your participation in the trial.

I said earlier to you, it will be your duty to find from the evidence what the facts are. You and you alone are the judges of the facts. You will then have to apply to those facts which you find, the law as the court gives it to you. And nothing that the Court may say or do during the trial is intended to indicate in any way what your verdict should be.

20 The evidence from which you will find the facts will  
21 consist of testimony of witnesses, documents and other things  
22 received into the record as exhibits, and any facts that the  
23 lawyers agree to or stipulate to, or that the court may  
24 instruct you to find.

There are certain things that are not evidence and

1 should not be considered by you as such, and they include  
2 things like statements, arguments and questions by the  
3 attorneys. Objections to questions are not evidence. The  
4 lawyers have an obligation to their clients to object to  
5 things they believe are improper -- being improperly admitted  
6 under the rules of evidence. Should not be influenced by the  
7 objection. If it is sustained, you should ignore the  
8 question. And if it is overruled, you should treat the answer  
9 like any other answer.

10           There may be times when an item of evidence is  
11 received for a limited purpose and the court instructs you  
12 accordingly and you should follow that instruction.

13           Any testimony that the court tells you to exclude or  
14 disregard is not evidence.

15           And then anything you may have seen or heard outside  
16 the courtroom is not evidence.

17           Now during the jury selection I informed you that  
18 the government had charged the defendant by bill of  
19 indictment. I also indicated to you that the bill of  
20 indictment was not evidence, but merely the notice to the  
21 defendant that brought him here to this trial. And the  
22 accusations in the indictment are not evidence but they  
23 present the issues for you for your determination.

24           But having said that, the government has alleged  
25 that the defendant, Mr. Parker Coleman, conspired with others

1 not on trial today, to distribute and possess with intent to  
2 distribute marijuana.

3                   And the government has alleged that that occurred  
4 between time periods of 2009 forward, in Mecklenburg County  
5 and elsewhere.

6                   And the defendant is also charged with conspiring to  
7 conduct financial transactions with the proceeds of  
8 distributing a controlled substance, which is commonly  
9 referred to as money laundering.

10                  In addition to those charges, the defendant is  
11 charged with possessing with intent to distribute marijuana on  
12 November 2nd, 2010. And possessing a firearm in furtherance  
13 of that offense, and after being convicted of a felony, or  
14 aiding and abetting those offenses.

15                  And finally the defendant is charged with possessing  
16 a firearm in furtherance of a drug trafficking offense on  
17 November 16, 2010 after being convicted of a felony.

18                  Now I will give you more detailed instructions on  
19 the law at the end of the case, and a copy of the indictment  
20 to take with you back to deliberate on the case. But those  
21 are, in brief, the allegations against the defendant.

22                  Now as the court has said, you are the sole judges  
23 of the credibility of the witnesses, and the weight their  
24 testimony deserves. And while there is no absolute or  
25 arbitrary guide or measure by which you shall determine the

1       truthfulness or untruthfulness of a witness, there are some  
2       general principles which may assist you in the determination  
3       of the credibility of the witnesses.

4                 Those factors include such things as whether the  
5       witness has any motive or reason for being truthful or  
6       untruthful; the witnesses' interest, if any, in the outcome of  
7       the case; whether there has appeared from the witnesses'  
8       attitude or conduct, any bias, prejudice or feeling which may  
9       cause that person's testimony to be influenced; whether the  
10      testimony bears the earmarks of truthfulness; to what extent,  
11      if any, it is corroborated or confirmed by other testimony  
12      which is not questioned, or by known or admitted facts.

13               And also you may consider the intelligence and  
14       mental capacity of a witness, and the witness's opportunity to  
15       have accurate knowledge of the matters to which the person  
16       testifies.

17               I instruct you that you may believe all that a  
18       witness says, or none of it. You may believe part and  
19       disbelieve part. It's up to you to decide.

20               Now a few words about your conduct as jurors.  
21       First, I instruct you that during the trial you are not to  
22       discuss the case amongst yourselves or with anyone else. Nor  
23       should you permit anyone to discuss it with you. Until you  
24       retire to the jury room at the end of the case to deliberate  
25       on your verdict, you simply are not to talk about the case.

1 And if anyone should try to talk to you about it, you should  
2 bring it to the court's attention promptly.

3 Second, do not read or listen to anything touching  
4 on the case in anyway.

5 Third, do not try to do any research or make any  
6 investigation about the case on your own.

7 Your duty to follow these instructions is a serious  
8 responsibility and a failure to follow it may result in being  
9 found in contempt of court. So until you retire to  
10 deliberate, you simply are not to discuss the case, research  
11 the case, or do any investigation on your own.

12 Now all of us use electronic media in the daily  
13 course of our lives, but you may not use any such device  
14 including telephone, cellphone, smart phone, iPhone,  
15 Blackberry or computer; the Internet, any internet service, or  
16 any text or instant messaging service; any internet chat room,  
17 blog, or website such as Facebook, My Space, Linked In, You  
18 Tube or Twitter.

19 You can't use any of those devices to communicate to  
20 anyone any information about the case, conduct any research  
21 while you're serving as jurors.

22 Now you may take notes if you wish to take notes,  
23 but I want to say to you that any notes that you take are  
24 simply an aid to your own memory and not a substitute for your  
25 memory. And so if you choose to take notes, consider it for

1       that purpose. And if you choose not to take notes, whether  
2       you take notes or don't take notes, you need to rely upon your  
3       own memory of the evidence as it comes forward.

4                   So the case is about to begin. And first the  
5       government will make its opening statement, which is simply a  
6       forecast of what the government believes the evidence will be.  
7       Next the defendant -- the defense attorney may, but does not  
8       have to make an opening statement. I remind you that opening  
9       statements are not evidence.

10                  After the opening statements the government will  
11      present its witnesses, and counsel for the defendant may  
12      cross-examine those witnesses. And following the government's  
13      case, the defendant may, if he chooses, present witnesses whom  
14      the government may cross-examine.

15                  After all the evidence is in and I've given you  
16      general instructions, the attorneys will present their closing  
17      arguments to you. Then the court will come back and instruct  
18      you on the specific counts in the indictment, the law that's  
19      alleged to have been violated, and the essential elements  
20      which the government must prove beyond a reasonable doubt as  
21      to each count in the indictment.

22                  So that's the process that we're going to follow.  
23      We will start each day at approximately 9:30; take a morning  
24      and afternoon break; a break for lunch, most likely between  
25      1:00 and 2:00, and we will end each day around 6:00 at night.

1 And that's the schedule and the process. And at this point  
2 we're ready to start the case.

3 Is the government prepared to make its opening  
4 statement?

5 MR. KAUFMAN: Yes, Your Honor.

6 THE COURT: When you're ready you may do so.

7 MR. KAUFMAN: Thank you, Your Honor.

8 May it please the Court, counsel, ladies and  
9 gentlemen of the jury. Good afternoon.

10 THE JURY: Good afternoon.

11 MR. KAUFMAN: Good afternoon.

12 THE JURY: Good afternoon.

13 MR. KAUFMAN: Ladies and gentlemen, this is going to  
14 be jam packed evidence coming to you. I imagine that we'll be  
15 asking for your services until about Wednesday or so. But  
16 ultimately, at the conclusion of the evidence, we submit that  
17 we will have proven beyond a reasonable doubt that that man,  
18 Parker Antron Coleman, was the leader of the Charlotte side of  
19 an enormous marijuana trafficking and money laundering  
20 conspiracy.

21 Now ladies and gentlemen, where do we start? Let's  
22 go back to January 9 of 2009. You're going to be hearing  
23 evidence that Stephanie Peppers -- and there's going to be a  
24 lot of names that come up. During the trial you'll see  
25 photographs of these people, you'll start to become familiar

1 with them.

2           But Stephanie Peppers was asked by a man named  
3 Gerren Darty -- now Gerren Darty was a key link between  
4 Charlotte and Los Angeles. The source of supply out in  
5 California, Milton Adams, had the connect with the Mexican  
6 source of supply. So he knew Gerren Darty. And Gerren Darty  
7 put Parker Coleman in touch with Milton Adams.

8           On January 9th -- or actually it was in December  
9 leading up to the January events, Gerren Darty had wanted a  
10 rental vehicle. Mr. Coleman asked Ms. Peppers to rent a  
11 Caliber from Enterprise. Which, she did, for Mr. Darty.

12           You're going to hear that Mr. Darty eventually  
13 picked up hundreds of pounds of marijuana that was in a crate  
14 on January 9, 2009. Inside of this enormous crate there were  
15 a couple of barrels. Inside of those barrels was the  
16 marijuana.

17           What they did is, you'll hear there was a masking of  
18 the scent of marijuana. Because marijuana has a strong  
19 distinctive smell. And they used manure, among other things,  
20 to try to cover that smell.

21           Now, that Caliber, you'll see records and you'll  
22 actually be hearing sworn testimony from Ms. Peppers who is  
23 now what is called a "cooperating defendant." She has agreed  
24 to cooperate with the law enforcement investigation and, yes,  
25 in fact, the United States prosecution of Mr. Coleman and

1       others.

2                 And you're going to hear that when she rented that  
3 Caliber, she had to provide -- she had to provide a reference.  
4 And one of those references was Mr. Coleman. And that was at  
5 the time the only way that Mr. Coleman was in any way on the  
6 radar screen.

7                 Fast forward now from January of 2009 to July of  
8 2010. You'll be hearing from Officer Carlos Lopez from  
9 Charlotte-Mecklenburg Police Department, CMPD. He's a K-9  
10 officer among other things. And you'll be hearing that he was  
11 involved in stop of Mr. Coleman. Mr. Coleman was driving his  
12 white Porsche Cayenne SUV.

13                 And you'll hear that the K-9, the narcotics  
14 detection dog. That's what we often call a K-9. You'll hear  
15 that the K-9, that he alerted to the back portion of the  
16 vehicle. And in the back of Mr. Coleman's vehicle there was a  
17 box that was intended for a money counter. And inside they  
18 found approximately \$42,000 in cash.

19                 Now when I talk about an alert -- I believe I used  
20 that term -- you'll hear testimony from Officer Lopez and  
21 actually another K-9 Officer Chris Newman who is also with  
22 CMPD. And you'll hear that an alert is when a dog gives an  
23 indication that they detect the distinct smell of controlled  
24 substances. They're trained for that purpose. You'll hear  
25 testimony about that.

1           Now that's July of 2010. You'll hear based on other  
2 information, law enforcement then, in November -- well,  
3 actually late October of 2010, went to the area of 5425  
4 Closeburn Road. There was information that Parker Coleman  
5 lived at that address.

6           So there was surveillance in October. They saw Mr.  
7 Coleman in that vicinity, and, in fact, going to the apartment  
8 complex. You'll hear that 5425 Closeburn Road is right around  
9 the corner from South Park Mall. It's right at the corner of  
10 Park Road when you take that left hand turn towards South Park  
11 Mall, it's right there on the corner.

12           You'll be hearing about various addresses that are  
13 relevant to this case.

14           But, on November 2nd, during surveillance, you'll  
15 hear that a man named Jerry Davis -- who you'll hear was one  
16 of the primary distributors for Mr. Coleman -- you'll hear  
17 that Jerry Davis went into the apartment complex at Closeburn  
18 Road. He had maybe a small bag for fast food or something,  
19 and he went inside, and then within a short while, just a  
20 matter of minutes later, came back out and he was wheeling a  
21 suitcase.

22           Now these suitcases are crucial. Because this is  
23 how the conspiracy did what they did. And you may be shocked  
24 about some of the details about it. But, ultimately Mr. Davis  
25 was stopped by Officer Newman, the other K-9 officer that I

1 had mentioned. And in fact, Officer Newman and the other  
2 officers involved in the stop found 30 pounds of marijuana in  
3 his car.

4 You'll hear that Mr. Davis agreed to cooperate with  
5 law enforcement, and was, among other things, providing  
6 information and also agreed to what's -- to make what's called  
7 consensually recorded calls.

8 This is when law enforcement is supervising an  
9 individual who wants to cooperate, and they will watch and  
10 listen as that person makes calls to co-conspirators in an  
11 attempt to sting them, or get them to make either a delivery  
12 or an acknowledgment of some sort of past historical part in a  
13 conspiracy.

14 You'll hear that Mr. Davis called Mr. Coleman. And  
15 in that call -- please listen very carefully -- Mr. Coleman  
16 raises the issue of a search and is concerned over K-9s and  
17 his concern over "the". Now does he say the word marijuana?  
18 You're gonna hear that drug traffickers use coded language,  
19 just as a natural course. They get used to doing that because  
20 they don't want to be detected. No one is 100 percent sure if  
21 law enforcement is watching, listening. So they're safe.  
22 What is "the". "The" is the marijuana that was seized.

23 MR. BUTLER: Objection.

24 THE COURT: This is a forecast of the evidence.  
25 Overruled.

1                   MR. KAUFMAN: Shortly after that, you'll hear  
2 Shaunda McAdoo, that she called Mr. Davis. There will be  
3 about various links showing Shaunda McAdoo's connection to Mr.  
4 Coleman, things on her phone such as a photograph of Mr.  
5 Coleman sleeping. You'll see a hand holding what's called a  
6 bud of marijuana. You'll see connections between Ms. McAdoo  
7 and one of the couriers involved in this case who you'll  
8 actually be hearing testify.

9                   Anyway, Ms. McAdoo calls Mr. Davis. Is everything  
10 all right? Everything's cool. Okay.

11                  What happens after that? Ms. McAdoo leaves in a  
12 Lexus. You'll hear that this silver Lexus belongs to  
13 Ms. Peppers. Ms. McAdoo is with two other individuals, a man  
14 named Davon Harris whose nickname is Poppa and Christopher  
15 McKneely, whose nickname is Esco.

16                  When the police were stopping the car, the front  
17 passenger was making motions that was consistent with trying  
18 to put something in the glove box. And low and behold, what  
19 did law enforcement find, but \$21,000 in cash.

20                  So what happened after that. November 2nd is a very  
21 busy day, ladies and gentlemen. After that, based on  
22 information from Mr. Davis and everything that had happened to  
23 that point, law enforcement went to the court, obtained a  
24 search warrant for Mr. Coleman's residence at 5425 Closeburn  
25 Road in apartment -- in Unit 115.

1            You will get to hear testimony from officers who  
2 were present for the search. Mr. Coleman was there, by the  
3 way. He was alone. You're gonna hear that there's really  
4 no -- we submit that after you hear the evidence, that this  
5 was his residence, all of his clothes were there. And what  
6 did they find? They found a lot of evidence. You're going to  
7 see bag fulls, literally, of evidence. Among that evidence is  
8 information connecting Mr. Coleman to the residence.

9            You're going to find money wrappers, like paper  
10 money wrappers, ones that you would see coming from a bank.  
11 You'll see numerous, numerous rubber bands. You'll hear  
12 testimony from the agents that this is consistent with the way  
13 that someone would bundle money. And you'll also see  
14 packaging materials that's consistent with somebody who's  
15 trying to package marijuana.

16           Again, it's very important to avoid detection and  
17 the smell of marijuana is one of the weak points when you're a  
18 marijuana trafficker.

19           But importantly you're also going to find that under  
20 Mr. Coleman's bed, he had a Glock handgun. Now, that Glock  
21 handgun, there's a few issues with that that I want to touch  
22 upon very quickly. First of all you're going to hear that  
23 Ms. Peppers had provided him with that handgun, and there's a  
24 very important reason why she bought it for him.

25           If I can take a step back you're going to hear that

1 Mr. Coleman is in fact a convicted felon. He's not permitted  
2 under the law to carry a firearm. Convicted felons cannot do  
3 it. That's the law and you'll be hearing Judge Conrad explain  
4 that to you later on.

5 In addition to that, you're going to hear that  
6 Ms. Peppers was Mr. Coleman's probation officer for his prior  
7 conviction related to felony possession of marijuana.

8 You're going to hear that Mr. Coleman convinced  
9 Ms. Peppers and -- well, when I say convinced -- Ms. Peppers  
10 and Mr. Coleman got into a personal relationship. You're  
11 going to hear that Ms. Peppers resigned her position as a  
12 probation officer within a matter of weeks. She'll tell you  
13 that it was just -- she knew it was wrong, and it was the  
14 right thing to do was to resign.

15 But she knew that Mr. Coleman had the connections.  
16 He knew the business. And she's the one who actually provided  
17 Mr. Coleman with her tax refund to give him the seed money to  
18 start up the conspiracy that he was dying to start up again.  
19 You'll hear her testimony about him talking about it, how he's  
20 constantly trying to build the connections to start up the  
21 business again.

22 That's also the reason why she in fact felt so  
23 confident in his abilities that she herself became involved,  
24 first as a courier for him, and also as a facilitator and was  
25 distributing drugs on his behalf.

1           Now with regard to that firearm, you're going to be  
2 able to see that firearm. We've got it in court, you'll be  
3 able to see it. And in addition to the firearm you're going  
4 to find in that same master bedroom in the closet, Mr. Coleman  
5 had installed a safe in the closet which is filled with an  
6 incredible amount of clothes and shoes. You'll even see the  
7 \$495 price tag on one of those many pairs of shoes, numerous  
8 watches. But in that safe, law enforcement found over \$92,000  
9 in cash. Those are drug trafficking proceeds.

10          You're going to hear about a lot of money going into  
11 bank accounts. That's why we've got money laundering for a  
12 few reasons.

13          You'll hear testimony about money that was going  
14 into bank accounts. You'll be hearing money that was being  
15 hided -- I'm sorry. Money that was being hidden in carry-on  
16 baggage -- conceal and disguise is a term that Judge Conrad  
17 will describe to you during jury instructions, I don't want to  
18 go into law at this point -- but -- that was being hidden in  
19 carry-on baggage to go to California.

20          Now, maybe I should take this point, ladies and  
21 gentlemen, and just to explain very briefly the way that they  
22 operated. In the very beginning the conspirators here in  
23 Charlotte, Mr. Coleman and others, would have to bring money  
24 and pay upfront for the marijuana. That was for a few trips.  
25 And then they would get the product back. Smaller amounts of

1 money. But very quickly, you'll hear, after a few trips,  
2 there was almost a standard methodology. They would have  
3 \$50,000 or thereabouts, sometimes a little bit more. You'll  
4 hear about a couple of seizures which actually happened on  
5 November 2nd. I'll get back to that.

6 But about \$50,000 or more was going on carry-on  
7 baggage on the airline to California. The couriers would be  
8 dropped off at the airport here, picked up by facilitators on  
9 the other side. You will be hearing from one of the, William  
10 Pierce who will be testifying for you. You'll be hearing from  
11 a lot of these couriers from Charlotte, such as Stephanie  
12 Peppers as I mentioned. You'll be hearing from Harold  
13 Manigault. You'll be hearing from Samantha Schmidlin. You'll  
14 be hearing from Nolan Robertson. These are all couriers, and  
15 they have a little bit of different details to describe.  
16 We're not going to ask you to listen over and over to the same  
17 thing. There are different details you'll be hearing from  
18 them.

19 But ultimately when they got to California, the  
20 facilitator there would bring the person back to either Milton  
21 Adams, nickname Turtle. He's the key connect to the source of  
22 supply in California, or some other stash house. They would  
23 count the money. They would then get the marijuana consistent  
24 with the agreement that they had with Mr. Coleman. And then  
25 they would eventually, sometimes the same day, but usually a

1 day or two later, bring that courier back to the airport.

2 Now you might be saying, how did they do it? Okay.

3 What did they have? They had, generally speaking, they had  
4 two suitcases. Each suitcase had 50 pounds of marijuana. So  
5 each trip by each of these numerous couriers, had 100 pounds  
6 of marijuana.

7 Well they had somebody on the inside. Anybody know  
8 TSA? Well that's the airport security folks. They had an  
9 insider. You will actually hear that they eventually had more  
10 than one insider. This was an enormous conspiracy.

11 Ladies and gentlemen, what was going under that  
12 plane?

13 Almost fortunately, one might say, in this case,  
14 you'll hear the testimony that there was marijuana that was  
15 actually being circumvented security and going on those planes  
16 back here to Charlotte.

17 Now I think I mentioned Nolan Robertson. I had  
18 skipped a little detail about November 2nd. At the time it  
19 happened, law enforcement didn't realize the connection. But  
20 early in the morning on November 2nd, you're going to hear  
21 that there were two people who were stopped at Charlotte  
22 airport, and they just happened to have been booked, to be  
23 sitting next to each other on the airplane.

24 One of them was Leah Davis, and she had roughly  
25 \$54,000. Ladies and gentlemen, if I'm off or make a mistake,

1 the facts will govern. Leah Davis had over \$50,000 in her  
2 baggage, and Nolan Robertson had over \$60,000 in his baggage.

3 Now, as I mentioned, Shaunda McAdoo had a record on  
4 her phone for a flight that she had booked for Mr. Nolan  
5 Robertson. You will hear a lot of interconnections here,  
6 ladies and gentlemen. It's like a web. I see that there's  
7 some note takers here, which is good. Because the evidence is  
8 going to be interconnected, and it's going to be helpful for  
9 you to be able to put them altogether. I'll try to do that in  
10 my closing argument.

11 So, we had that money that was seized and ultimately  
12 that was connected to Parker Coleman as well. So that's all  
13 on November 2nd.

14 What else? You've heard that the indictment also  
15 returned charges related to November 16th. You're going to  
16 hear, first of all, that on November 2nd there was some  
17 marijuana that was in Mr. Coleman's house after Mr. Davis got  
18 caught. And again, there was a conversation with Mr. Coleman  
19 when he was concerned, Ms. McAdoo when she was concerned,  
20 there was another amount of marijuana that they brought down  
21 out of the apartment to the Cayenne, Mr. Coleman's Porsche,  
22 the SUV.

23 You're going to hear that Poppa, Davon Harris had  
24 the key to the car and he hid it. But ultimately they never  
25 found the key again. So they had to, later on, break into the

1 window of the SUV, get the marijuana, and get it out of there.

2 You're going to hear that the car was then brought  
3 to Hendrick Porsche. You'll get to see in this case, business  
4 records from Hendrick Porsche and numerous other business  
5 records and bank records, but the Hendrick records will show  
6 you various times that Mr. Coleman had brought his vehicle in  
7 to be serviced.

8 But, ultimately on the 16th was when the car was --  
9 the SUV was going to be ready. Law enforcement was aware of  
10 that, had been coordinating with them. And was waiting for  
11 Mr. Coleman to arrive so that they could arrest him. You'll  
12 hear that he had already been charged.

13 So, they had already got there. And in fact, they  
14 had obtained information that Mr. Coleman had kept firearms in  
15 a non-factory installed compartment behind the passenger seat.  
16 And low and behold law enforcement was there when people who  
17 worked for Hendrick Porsche opened up that compartment and  
18 found, facing each other, two firearms, two more handguns.

19 Ladies and gentlemen, those were, you'll hear, the  
20 evidence were Mr. Coleman's firearms. And when he -- what  
21 happened was, he went -- he went into Hendrick Porsche to  
22 collect the keys for the vehicle, and for whatever reason  
23 he -- oh, by the way, ladies and gentlemen, he showed up with  
24 Gerren Darty. Remember, he was the key connect between  
25 himself and the source of supply, Mr. Adams.

1                   So, Mr. Darty drove them in Mr. Darty's Volkswagen  
2 to the dealership. Mr. Coleman goes in, gets the keys to his  
3 SUV. For whatever reason, gives the keys to Mr. Darty to get  
4 into the Porsche. He gets into the Volkswagen to head out.  
5 Law enforcement stops them, and that's when they're arrested.  
6 So that's the basis for some of the charges, those firearms in  
7 Mr. Coleman's vehicle on November 16.

8                   I'm not going to go through every detail of the  
9 case. Let me say that we also have a recorded call that Mr.  
10 Coleman plays to another individual on April 13th. What he  
11 does in that call is, he talks about what's called a "reverse  
12 proffer". And in fact, on that date, November 13th, you'll  
13 hear testimony that Agent MacDonald and I did one of these  
14 reverse proffers, when the government lays out the facts for  
15 the defendant as to why he should plead and cooperate.

16                  In that call he describes it, you'll hear him talk  
17 about how it's overwhelming. That at that point all he could  
18 do was to try to get a better deal. And he'll say, and I  
19 apologize, ladies -- this is what you'll hear, ladies and  
20 gentlemen, this is in Mr. Coleman's own words, what he said.  
21 He said, "they got me by the balls."

22                  So, ladies and gentlemen, at the conclusion of the  
23 evidence, we are confident that you will be returning a  
24 verdict of guilty.

25                  Thank you.

1                   THE COURT: Mr. Butler.

2                   MR. BUTLER: Thank you, Your Honor. May it please  
3 the Court, Mr. Kaufman. Good afternoon, ladies and gentlemen  
4 of the jury.

5                   THE JURY: Good afternoon.

6                   MR. BUTLER: The evidence in this case will show a  
7 lot of things. But it will not show beyond a reasonable doubt  
8 that Mr. Coleman is guilty of any of these crimes.

9                   The evidence will show that back when Mr. Coleman  
10 met Ms. Peppers, he was 21. She was 13 years older than him.  
11 The evidence will show that back then there was a person by  
12 the name of Amhed Daniel Crockett who was the connection for  
13 Milton Adams out in California in the drug business. The  
14 evidence will show that these people were the big players in  
15 this case.

16                  The evidence will also show that Jerry Davis knew  
17 Milton Adams in California. The evidence will show that  
18 Parker Coleman is not from California. The evidence will show  
19 that Gerren Darty is from California, Milton Adams is from  
20 California, William Pierce is from California, Davon Harris is  
21 from California. Those are the players. The evidence will  
22 show that the Porsche Cayenne, wasn't Mr. Coleman's Porsche.  
23 It was like a community car for the drug dealers, for -- the  
24 government's attorney said Mr. Pierce had the keys to it.  
25 Well, how many of you all let other people have keys to your

1 car?

2                 The evidence in this case will show, ladies and  
3 gentlemen, that the weapons that were in the Porsche Cayenne  
4 were swabbed for DNA. Mr. Coleman's DNA is not on the weapon.  
5 Jason Banks' DNA is on it.

6                 The evidence in this case is about people who are  
7 looking for a deal. Guilty people who are looking for the  
8 best bargain that they can get. It will be about the  
9 inconsistencies in the evidence, how a lot of them did not  
10 have any involvement at all. Don't know what you're talking  
11 about.

12                 One thing will be absolutely consistent, and that  
13 is, they want to get the best result that they can by saying  
14 whatever gets them there. I want you to listen to them. I  
15 want you to scrutinize their testimony. The evidence will  
16 also show that some of the people that the prosecutor talked  
17 to you about, you won't see them up there on the witness  
18 stand. They're not going to come in here and testify. They  
19 won't be subject to cross-examination. So I want you to think  
20 about that as we go throughout this trial.

21                 The evidence will show that the Closeburn apartment  
22 was leased by Stephanie Peppers. The evidence will show that  
23 the silver Infiniti was in the name of Stephanie Peppers. You  
24 will hear about the execution of this search warrant. You  
25 will also hear about Jerry Davis saying well, you know, I just

1 left and I have this 30 pounds of marijuana and there's more  
2 marijuana in the apartment.

3 Well, of course, now, law enforcement has the  
4 apartment under surveillance. Okay. When they go in and  
5 search it, you know how much marijuana they find? Less than a  
6 gram.

7 So ladies and gentlemen, now you're going to hear a  
8 whole lot of evidence, but you must decide for yourself  
9 individually and collectively, whether or not there's proof  
10 beyond a reasonable doubt. And I submit to you that it is not  
11 and it will not be that what is required in a case like this.

12 I'd ask on behalf of my client, Mr. Coleman, and his  
13 family, my interns, and myself, that you keep an open mind  
14 throughout the course of this trial. That you give  
15 Mr. Coleman a fair trial, and that you consider all the  
16 evidence that will be presented in this trial. And if you do  
17 that, there's only one verdict, and that is not guilty. And  
18 at the close of all the evidence I will come back and show you  
19 all of the reasonable doubt in this case, and ask you to do  
20 your duty and find my client not guilty.

21 Thank you very much.

22 THE COURT: Call your first witness.

23 MR. KAUFMAN: Yes, Your Honor. We call Special  
24 Agent Alvis Bergs.

25 ALVIS BERGS, GOVERNMENT WITNESS, SWORN

## 1 DIRECT EXAMINATION

2 BY MR. KAUFMAN:

3 Q Good afternoon.

4 A Good afternoon.

5 Q Sir, if you could, state your full record (sic) and spell  
6 it for the record.

7 A Yes. My name is Alvis Bergs. A-L-V-I-S. B-E-R-G-S.

8 Q Where do you work?

9 A I'm a special agent with Homeland Security  
10 Investigations.

11 Q How long have you worked as a special agent?

12 A Since 2003.

13 Q I would like to turn your attention to November 2nd of  
14 2010. Were you involved in any stops at the airport on that  
15 date?

16 A Yes.

17 Q Would you describe what happened?

18 A Yes. We were notified by TSA that during a security  
19 screening, they encountered two passengers traveling on the  
20 same flight from Charlotte to Dallas, and then also scheduled  
21 to fly the same flight from Dallas to Los Angeles. They both  
22 had large amounts of currency.23 We have a memorandum of understanding with TSA that they  
24 notify us regarding any bulk cash coming through their  
25 checkpoints. So that's typically some of the investigations

1 that I work at the airport.

2 Q And just in case the folks in the jury don't know, what's  
3 TSA?

4 A Transportation Security Administration.

5 Q What's their job?

6 A They do security screenings at the airport and other  
7 locations, but typically at the airport.

8 Q Are you familiar with the names Leah Davis and Nolan  
9 Robertson?

10 A Yes.

11 Q How are you familiar with those names?

12 A I spoke to both Nolan Robertson and Leah Davis.

13 Q Were those the two individuals who were stopped?

14 A Yes.

15 Q And you mentioned that they were booked on the same  
16 flight. Do you recall where they were located in reference to  
17 each other?

18 A On the aircraft they were scheduled to sit, at least on  
19 the same row. Information we got initially was that they were  
20 seated next to one another.

21 Q What specifically was seized from each one of them?

22 A Leah Davis, we administratively seized approximately  
23 \$54,000 in U.S. currency, and Nolan Robertson we seized  
24 approximately \$63,000.

25 Q Like to show you -- and for the time being something

1 everyone but unfortunately the jury can see -- what has been  
2 marked for identification purposes as 22j. Do you recognize  
3 this?

4 A Yes, it's Leah Davis.

5 MR. KAUFMAN: Your Honor, at this time we would seek  
6 to have 22j admitted and published.

7 THE COURT: Any objection?

8 MR. BUTLER: Objection.

9 THE COURT: Basis?

10 MR. BUTLER: At this point I don't think they  
11 established a proper foundation to admit that photograph.

12 THE COURT: Overruled.

13 (Government's Exhibit No. 22j was received into  
14 evidence and published.)

15 Q I would like to show you next what's been marked as  
16 Exhibit 1a, 1b, 1c, and 1d. Do you recognize those photos?

17 A Yes. Those were all from Leah Davis' bag, the blue bag.  
18 And that was the currency that was located inside the bag.

19 Q And are all four photographs a fair and accurate  
20 representation of what you saw on November 2nd?

21 A Yes.

22 MR. KAUFMAN: Your Honor, we seek to admit and  
23 publish all four.

24 MR. BUTLER: Objection.

25 THE COURT: Overruled.

(Government's Exhibits No. 1a, 1b, 1c and 1d were received into evidence and published.)

3 || Q Going back to 1a. What's that?

4 A That's Leah Davis' bag.

5 Q One-b.

6 A The inside of her bag as we unzipped it, that's what we  
7 saw.

8 | 0 One-c.

9 A As we removed out a layer of clothing, we saw the  
10 currency there so we took a photo.

11 || Q One-d.

12 A And that's the currency spread out on the floor.

13 Q Now, was the money counted?

14 || A It was.

15 Q And how was that done?

16 A We do that through Brinks. What we do is, once the money  
17 is seized we seal it in a bag which is witnessed by another  
18 agent or several agents. Then the currency is just taken to  
19 Brinks and they count it with their counting machines.

20 Q Is that standard operating procedure?

21 A Yes.

22 Q Now showing you what's been marked as Government's  
23 Exhibit 3. When you go to Brinks, is there any kind of  
24 documentation that you receive from them?

25 A Yes.

1 Q And do you recognize Exhibit 3?

2 A Yes. This is the receipt. Once they count the money,  
3 they create this receipt for us, which we turn into our  
4 forfeiture, penalties and fines office. And that's a receipt  
5 that Brinks gave us.

6 MR. KAUFMAN: Your Honor, we seek to have Exhibit 3  
7 admitted and published.

8 THE COURT: Any objection?

9 MR. BUTLER: Objection, Your Honor, yes.

10 THE COURT: Basis?

11 MR. BUTLER: Well, Your Honor, it hadn't been a  
12 connection between how much money was seized and how much  
13 money --

14 THE COURT: I'll sustain the objection at this point  
15 subject to a later foundation.

16 Q (Mr. Kaufman) Now with regard to Mr. Robertson, I would  
17 like to show you what's been marked as 22a for identification  
18 purposes.

19 A Yes, that's Nolan Robertson.

20 MR. KAUFMAN: Seek to admit and publish, Your Honor.

21 THE COURT: What's the exhibit number, 22a?

22 MR. KAUFMAN: Yes, Your Honor.

23 THE COURT: Let it be admitted.

24 (Government's Exhibit No. 22a was received into  
25 evidence and published.)

1 Q Now I would like to show you what's been marked for ID as  
2 2a, 2b, 2c.

3 A Yes, it's all in Nolan Robertson's bag and clothing, and  
4 the currency was rolled up inside these pieces of clothing.

5 Q Are these three photographs fair and accurate  
6 representations of what you saw on November 2nd?

7 A Yes.

8 MR. KAUFMAN: Seek to admit and publish, Your Honor.

9 MR. BUTLER: Objection.

10 THE COURT: Let it be admitted. You may publish.

11 (Government's Exhibits No. 2a, 2b and 2c were  
12 received into evidence and published.)

13 Q Two-a is --

14 A Nolan Robertson's bag.

15 Q What's 2b.

16 A Clothing that was inside the bag.

17 Q And 2c.

18 A And individual bundles of currency located inside the  
19 various shirts there.

20 Q And outside of the jury's ability to view, I'm showing  
21 you what's been marked as Government's Exhibit 4 for  
22 identification. Do you recognize that?

23 A Yes. That's a receipt from Brinks regarding Nolan  
24 Robertson's currency.

25 Q Is that in fact the money that you personally provided to

1 Brinks?

2 A Yes.

3 Q Now after you had done the stops, done the seizures, what  
4 if anything did you do next?

5 A After the interview we called in CMPD,  
6 Charlotte-Mecklenburg Police Department K-9 officer. And with  
7 his K-9 we conducted a sniff of the currency, and basically we  
8 placed four boxes in a row, one of which had individually Leah  
9 Davis' currency in one box, and then after that the dog ran on  
10 that. The dog alerted positively --

11 MR. BUTLER: Objection. Move to strike.

12 THE COURT: Overruled.

13 THE WITNESS: The dog alerted positively to the odor  
14 of narcotics on the --

15 MR. BUTLER: Well, objection.

16 THE COURT: Overruled.

17 THE WITNESS: -- on the box had Leah Davis' currency  
18 in it. That box was removed. We placed Nolan Robertson's --

19 MR. BUTLER: I object, Your Honor. He has not  
20 established whether or not he has expertise to determine what  
21 the dog did.

22 THE COURT: You may testify as to what you observed.

23 THE WITNESS: Yes, sir.

24 We took that box away, placed Nolan Robertson's  
25 currency in another box, introduced that box to the four box

1 lineup, and then I observed the K-9 officer run his dog on  
2 those four boxes. The dog alerted to the box that had Nolan  
3 Robertson's currency in it.

4 MR. BUTLER: Objection to the term "alerting," Your  
5 Honor.

6 THE COURT: Overruled.

7 What do you mean by the term "alerting"?

8 THE WITNESS: Indicated positively to the odor of  
9 narcotics.

10 MR. BUTLER: Objection.

11 THE COURT: What do you mean, "indicated  
12 positively"? What did you see?

13 THE WITNESS: I saw the dog scratch the box and then  
14 sit.

15 Q (Mr. Kaufman) I would like to move your attention to  
16 later on November 2nd.

17 Did you in fact have other amounts of money that you  
18 received that were to be counted?

19 A Yes.

20 Q Can you tell us about that?

21 A There was other seizures made that day, and this is  
22 November 3rd, the next day. I checked out of evidence,  
23 several other currency seizures related to the investigation.

24 Q Okay. I would like to show you what's been marked as  
25 Government's Exhibit 47 for identification. Do you recognize

1 this document?

2 A Yes.

3 Q What is it?

4 A It's a chain of custody document with my signature on it  
5 for November 3rd.

6 Q And under acceptance chain of custody, how many lines  
7 down is your signature?

8 A Second line.

9 Q And turning now to page two of Exhibit 47.

10 A That's also another seizure I took to Brinks that day.  
11 That second line is my signature, November 3rd.

12 Q Next I would like to show you what's been marked as  
13 Government's Exhibit 8. Do you recognize this?

14 A Yes. That's the receipt from Brinks for that.

15 MR. BUTLER: Objection.

16 THE COURT: Overruled.

17 THE WITNESS: That's the receipt from Brinks that we  
18 received for that first seizure, chain of custody form issued.

19 Q (Mr. Kaufman) And Exhibit 13, do you recognize that?

20 A That's a receipt from Brinks and from the second seizure  
21 chain of custody, it shows --

22 MR. KAUFMAN: No further questions, Your Honor.

23 THE COURT: Any cross?

24 MR. BUTLER: Yes, Your Honor. Thank you.

25 CROSS EXAMINATION

1 BY MR. BUTLER:

2 Q Good afternoon, Agent Bergs.

3 A Good afternoon.

4 Q Now, are you -- you just testified about Government's  
5 Exhibit, I believe it was 13; is that right? Can you put it  
6 back up for him to see?

7 A Yes.

8 Q Okay. Now, well, is there anything on it that says it's  
9 a Brinks' receipt or whatever it is?

10 A No.

11 Q Okay. Now, well, what about the other exhibits that you  
12 referred to as being from Brinks? Can you put those up?

13 A Yes, it's-- they give us a deposit ticket, which is, in  
14 this case, laid over the other deposit detail.

15 Q Okay. But my question is, there's nothing to indicate  
16 Brinks on the top where it says "deposit detail," does it?

17 A Not on the deposit detail, but it does on the deposit  
18 slip there, it says "Brinks" on it.

19 Q Okay. Now, you indicated that you were -- were you  
20 stationed at the airport or were you called to the airport?

21 A They called us. I was at home and I drove to the  
22 airport.

23 Q Okay. And at that point -- at some point you seized some  
24 money; is that right?

25 A Yes.

1 Q But you didn't count it, correct?

2 A Correct.

3 Q And now, you don't know of your own personal knowledge  
4 who was in possession of the money; is that correct?

5 A I do individually for Leah Robertson and Nolan -- or Leah  
6 Davis and Nolan Robertson, I do.

7 Q Well, you were familiar with this investigation with the  
8 California connection; is that right?

9 A Yes.

10 Q And you are aware that there was allegedly a TSA agent  
11 out at LAX, Los Angeles International Airport that was  
12 supposedly passing marijuana through the planes; is that  
13 right?

14 A I had heard something of that effect after my involvement  
15 with these seizures.

16 Q But you don't know if that was true, right?

17 A I don't, no.

18 Q Now on this particular occasion you were -- did you  
19 interview Leah Davis?

20 A Yes.

21 Q Now did you interview Nolan Robertson?

22 A Yes.

23 MR. BUTLER: If I may have a minute please, Your  
24 Honor.

25 THE COURT: You may.

1                   (Pause.)

2   Q    Well, do you recall -- were you present -- were you  
3   present when Nolan Robertson told law enforcement --

4                   MR. KAUFMAN: Objection, Your Honor.

5                   THE COURT: Sustained as to what Nolan Robertson  
6   told law enforcement.

7                   MR. BUTLER: Well, I was asking if he was present  
8   when he told him, he's law enforcement.

9                   THE COURT: Right. I'll sustain any -- I'll sustain  
10   a hearsay objection as to what he was told to him out of  
11   court.

12   Q    (Mr. Butler) Were you ever present when Nolan Robertson  
13   was interviewed?

14   A    Yes.

15   Q    Were you present when he was debriefed?

16   A    Yes.

17   Q    And a debriefing is when a person wants to cooperate with  
18   law enforcement; is that right?

19   A    Let me correct that. I wasn't present during any  
20   debriefing, just the initial interview of Nolan Robertson at  
21   the airport.

22   Q    I'm sorry. Your voice faded at the end.

23   A    I was only present during the initial interview of Nolan  
24   Robertson at the airport that day.

25   Q    Okay. Well, do you know Agent MacDonald?

1 A I do.

2 Q Is that him seated next to the prosecutor?

3 A Yes.

4 Q So you were never with him when he interviewed Nolan  
5 Robertson?

6 A Later on in the investigation I was with Agent MacDonald  
7 and at least one other agent. We went to Nolan Robertson's  
8 house. But when they spoke to him I wasn't present during  
9 that investigation -- or that interview.

10 Q And where did Nolan Robertson live since you said you  
11 went to his house?

12 A Union County.

13 Q Okay. Now you didn't see where Nolan Robertson or Leah  
14 Davis was seated on the airplane, did you?

15 A At the time we had their boarding passes, but I don't  
16 recall right now.

17 Q Okay. Well, you didn't go on the airplane?

18 A No. No.

19 Q Okay. You don't know who -- you don't know if Nolan  
20 Robertson knew Parker Coleman or not, do you?

21 A I don't.

22 MR. BUTLER: If I could have a moment please, Your  
23 Honor.

24 THE COURT: You may.

25 MR. BUTLER: Thank you.

1 (Pause.)

2 MR. BUTLER: I have no further questions.

3 THE COURT: Any redirect?

4 MR. KAUFMAN: Yes, Your Honor.

5 REDIRECT EXAMINATION

6 BY MR. KAUFMAN:

7 Q Agent Bergs, you were asked some questions about the  
8 Brinks receipts.

9 Did you personally take all four of these different  
10 groups of money from the evidence room directly to Brinks?

11 A Yes, I did.

12 Q And were you present while the Brinks personnel did the  
13 count?

14 A Yes.

15 Q And did you personally receive the receipts that you  
16 viewed in these four exhibits?

17 A Yes.

18 MR. KAUFMAN: Your Honor, at this time we would move  
19 to have Exhibits 8 and 13 -- 8 showing on the screen now, Your  
20 Honor, and 13 admitted and published.

21 MR. BUTLER: Objection.

22 THE COURT: Sustained.

23 Q (Mr. Kaufman) Now you were asked a question about the TSA  
24 insider by Mr. Butler.

25 Are you aware of whether that's part of the continuing

1 investigation?

2 A I'm not aware. Actually there was something in the news  
3 about it, I believe.

4 Q You were also asked about debriefing with Mr. Robertson.

5 Are you aware of how many times Mr. Robertson debriefed  
6 with law enforcement?

7 A No, I have no idea.

8 MR. KAUFMAN: Nothing further.

9 THE COURT: You may step down and be excused. Call  
10 your next witness.

11 MR. KAUFMAN: Thank you. Officer Chris Newman.

12 CHRIS NEWMAN, GOVERNMENT WITNESS, SWORN

13 DIRECT EXAMINATION

14 BY MR. KAUFMAN:

15 Q Good afternoon.

16 A Good afternoon.

17 Q If you would please state your full name for the record,  
18 spelling it as well.

19 A Christopher Todd Newman. N-E-W-M-A-N is the last name.

20 Q And where do you work?

21 A I work at Charlotte-Mecklenburg police department.

22 Q What are your duties?

23 A My duties are, I'm assigned to the Vice and Narcotics  
24 Division as a K-9 handler on the Federal Task Force Division.

25 Q And when you say Federal Task Force, what do you mean?

1 A I'm assigned to the local -- the federal agencies that  
2 are here locally, to assist them in drug investigations as  
3 throughout the Charlotte region.

4 Q Are you familiar with the term, "Organized Crime Drug  
5 Enforcement Task Force?"

6 A I am.

7 Q Or OCDETF?

8 A Yes.

9 Q Is that the task force you're referencing?

10 A Yes, I'm assigned to that task force.

11 Q How long have you been in law enforcement?

12 A I've been in law enforcement approximately, right at 13  
13 years.

14 Q How long have you been at CMPD?

15 A I've been at CMPD since January '06.

16 Q Before that where were you?

17 A Prior to that I spent six and a half years at the  
18 Cabarrus County Sheriff's Office.

19 Q In terms of being a K-9 officer, what training was  
20 involved in that?

21 A I've gone to approximately, say about 200 hours of K-9  
22 training. When you first initially get the K-9, you go to  
23 school for 80 hours. You're introduced to the dog, and you  
24 and the dog go into training together. And then from there  
25 you're deployed to the streets, either put on -- into the work

1 aspects and then you continuously receive training.

2 I've gone to a week-long school in Meridian, Mississippi  
3 for K-9 training. And I constantly train with the dog on a  
4 weekly basis, sometimes daily. And then we receive training  
5 and certifications throughout the year.

6 Q What's the name of your dog?

7 A My dog's name is Ice.

8 Q How long have you been working with Ice?

9 A I've been working with Ice for about four and a half  
10 years now.

11 Q When you say that there's weekly training, can you  
12 describe what that involves?

13 A Basically, I'm -- my -- Ice is a narcotics K-9 detection.  
14 I'm assigned to narcotics. Then I'm issued to meet the  
15 training dog. And myself and other officers will take the  
16 narcotics and hide them. In training scenarios we'll use  
17 houses, vehicles, any areas that -- buildings, businesses that  
18 allow us, we'll hide the narcotics, one officer will hide and  
19 then we'll run our dog through and let them find the  
20 narcotics.

21 Q You also have to go -- in addition to the weekly  
22 training, do you have certification courses that you have to  
23 go through?

24 A Yes. We have certifications about, approximately one  
25 time a year. There's several -- several K-9 organizations

1 that come and certify your dog. And what they do is they'll  
2 have the -- sometimes they're in High Point, Raleigh,  
3 Greensboro, sometimes Charlotte.

4 What we'll do is, we'll go -- they'll have the dogs set  
5 up -- the narcotics will be set up and we'll come into the  
6 environment and we'll be -- we'll find the narcotics. How  
7 ever we score will be certified by that certification body.

8 Q During those certifications, are you aware of where the  
9 narcotics are being hidden?

10 A No, it's all blind. We have no idea where the narcotics  
11 are at. We're basically -- the way it works, we'll come in  
12 and they'll give us three rooms. And they'll say one of the  
13 rooms is loaded. "Loaded" meaning that there's narcotics  
14 hidden in there. And your dog will be presented through  
15 three -- once you receive a positive alert or indication from  
16 your dog, you'll tell the instructor, I believe it's in this  
17 area or this bookshelf, whatever it may be that your dog's  
18 alerting to. And then he'll say, "good job".

19 MR. BUTLER: Objection.

20 THE COURT: Overruled.

21 MR. BUTLER: To the hearsay.

22 THE COURT: Overruled.

23 THE WITNESS: And then they'll be -- they'll certify  
24 you by you finding the narcotics.

25 Q (Mr. Kaufman) Have you or Ice ever failed to be certified

1 in any course you've ever gone to?

2 A No, we've never failed.

3 Q How accurate is Ice at detecting the presence of  
4 narcotics?

5 A She has a 99 percent accuracy.

6 Q Now, if we could take a step back. Why does law  
7 enforcement use a dog for narcotics detection?

8 A K-9s or the dogs, per se, have a much better sense of  
9 smell than humans. Their olfactory sensory are much more  
10 advanced than ours. They can smell probably about 100 times  
11 more than we can.

12 MR. BUTLER: Object. Move to strike to "probably".

13 THE COURT: Move to strike, pardon me?

14 MR. BUTLER: "Probably." He said "probably."

15 THE COURT: Overruled.

16 THE WITNESS: K-9s smell with their -- not only with  
17 their nose, but also their mouth. And K-9s are used in  
18 numerous things for searching for people, searching for  
19 narcotics, and searching for explosives. And they're very  
20 helpful in that sense because they can cover a large area in a  
21 short amount of time.

22 Q (Mr. Kaufman) Now when you're training with Ice, what kind  
23 of materials do you use?

24 A When I train with Ice I use the narcotics, but I also use  
25 cloth. Because I put, like, cloth, or I use patches of cloth.

1 And what happens is, I keep that cloth in the narcotics box  
2 with, say, the marijuana or the cocaine, and that odor  
3 transfers over. And then we hide those things sometimes to  
4 have the dog learn how to find the odor. They're not finding  
5 the product, they're finding the odor. That's what they're  
6 smelling for. And so they find the odor.

7 Once they find the odor, that's when they are taught  
8 after repetition in their initial stages to -- K-9s can be  
9 taught three different ways, basically. They can be a passive  
10 or aggressive alert. Ice is a passive alert dog. Meaning she  
11 sits down next to and usually stares at where she smells the  
12 odors at that she's trained to smell.

13 Q Does she ever scratch at the area?

14 A Sometimes. Because aggressive means that they scratch at  
15 it. So what you do is, you train the dog initially to be  
16 aggressive, and then you train them to be passive. So it's an  
17 extra step of training.

18 And if she gets overexcited, it's because she knows she  
19 gets to go play afterwards as a reward. She'll sometimes  
20 scratch at it a little bit depending on how worked up she is.

21 Q You mentioned that you, in addition to drugs, you  
22 actually use cloth. Do you use any other materials?

23 A I use -- I have some U.S. currency that I use, that I  
24 keep in some of the narcotics boxes as well. It's -- I got it  
25 from the Federal Reserve down the road here, and I keep it in

1 there to train the dog on every aspect of the job that I  
2 incur.

3 Q Why money?

4 A Well, money -- because in the narcotics business, money  
5 is the driving factor. And so there's a lot of cases where  
6 money come -- becomes involved in narcotics cases. And so I  
7 train the dog with everything that I might be coming in  
8 contact with.

9 Q Is there anything in particular about the material used  
10 to make currency?

11 A Well, U.S. currency is made basically from cotton fibers.  
12 That's why it doesn't tear apart when you wash it in the  
13 washing machine. It's made of cotton fibers. And so that's  
14 why it stays together.

15 Well, cotton fibers are like clothing fibers, the odor  
16 sticks to that. And so I use that as well, because it's part  
17 of the job that I incur. So I need to train the dog in those  
18 aspects.

19 Q I'd like to turn your attention to November 2nd, 2010.  
20 Were you called to the airport to assist in a drug related  
21 investigation?

22 A I was. I was called to -- in reference a money seizure  
23 at the airport.

24 Q What happened?

25 A I was requested by Agent Bergs to come out to the airport

1       in reference to a money seizure. Once I got there they  
2       requested that they do a lineup on the money. Basically  
3       lining the money up in five separate containers. And one --  
4       four of the containers being negatives, meaning the suspected  
5       narcotics money not being involved in the one container. And  
6       then run the dog on it blindly to see if there's an alert.

7       Q       When you say "blindly," were you aware of which box  
8       contained anything?

9       A       No, that's what I mean when I say blind, I'm not aware of  
10      anything. I instruct them to set up the boxes, and then we  
11      space them out along -- in a pretty good distance, probably 5,  
12      6-feet away from each other. Then I present the dog to those  
13      boxes and see what she does.

14      Q       How many times did you do such a blind review of boxes  
15      that day?

16      A       That day I did two.

17      Q       And did Ice alert to any of the boxes?

18      A       Ice alerted to a box and then I was told at that time  
19      that was the box.

20                  MR. BUTLER: Objection.

21                  THE COURT: Overruled.

22                  THE WITNESS: I was told at that time that's the box  
23      that contained the currency. Those are for my  
24      documentation --

25                  MR. BUTLER: Objection. Move to strike.

1                   THE COURT: Overruled.

2   Q    (Mr. Kaufman) And you said that happened with one of the  
3   sets of five boxes. Can you -- what happened with the other  
4   set of five boxes?

5   A    The same thing on the second set of money. I guess it  
6   was two different packages of money that were detained that  
7   day. And I explained to the agents to set it up, and then it  
8   was done again.

9   Q    Later on that same day were you called to assist in an  
10 investigation that Agent MacDonald and Detective Beaver were  
11 conducting?

12 A   I was.

13 Q   Tell us what happened.

14 A   I was requested to conduct a traffic stop on a Chevy  
15 Tahoe. I actually just happened to be right down the road  
16 from the location that they were at.

17 Q   Where were you at the time?

18 A   I was at the parking lot for the DEA office on Fairview  
19 Road. And as I was in the office, I got -- received a phone  
20 call requesting my assistance to conduct a traffic stop. I  
21 asked where they were at. They said we're on Fairview going  
22 northbound passing South Park Mall. I was actually, I said,  
23 I'm right here.

24                  As I pulled out onto Fairview Road, the vehicle had drove  
25 by me. And at that time I seen the vehicle and I think one or

1 two other undercover cars that I know from working with law  
2 enforcement.

3 Q Like to show you what's been marked as 6a for  
4 identification purposes. Do you recognize it?

5 A Yes. This is the gray in color Chevy Tahoe.

6 MR. KAUFMAN: Move to admit and publish, Your Honor.

7 THE COURT: Any objection?

8 MR. BUTLER: No, sir, Your Honor.

9 THE COURT: Let it be admitted. You may publish.

10 (Government's Exhibit No. 6a was received into  
11 evidence and published.)

12 Q (Mr. Kaufman) What happened during the traffic stop?

13 A I was trying to catch up to the vehicle. The vehicle was  
14 in the number one lane.

15 To explain the lanes, number one being the far left, two  
16 being in the middle, three being -- as I was trying to catch  
17 up to it, we was going down Fairview. Just as we came up to,  
18 I believe it's Connelly Road, the vehicle had no traffic was  
19 ahead of it, and immediately went from -- in about a 50-yard  
20 time -- area distance, it went from lane number one, shot all  
21 the way across three lanes of travel and turned into the  
22 apartment complex just before you get to that intersection.

23 Actually if you look on the picture, you can see the  
24 roadway back behind there. It turned immediately, whipped  
25 into there and then turned into this parking spot.

1 Q What happened next?

2 A Once it turned into this parking spot, I positioned my  
3 vehicle behind it. I had activated my lights as I turned into  
4 this, and I approached the driver on the driver side of the  
5 vehicle.

6 Q Who was the driver?

7 A The driver was a Jerry Davis. I started speaking with  
8 him. I told him that I was conducting an investigation  
9 reference him shooting across those three lanes of travel.  
10 That was a traffic violation of unsafe movement that I seen  
11 him conduct.

12 Talking to him, as I was standing there talking to him, I  
13 smelled the odor of fresh marijuana coming from the vehicle.  
14 So once I did that, I got his ID and I went back and got into  
15 my car and notified the detectives that were around me and  
16 called for a backup car.

17 Q What happened next?

18 A After that I re-approached Mr. Davis and asked him to  
19 exit the vehicle. Mr. Davis is a very large man. Asked him  
20 to exit the vehicle. Once he exited the vehicle, I said I  
21 smell marijuana in your vehicle. You know, I'm going to be  
22 cooperative with you, just be cooperative with me. I don't  
23 want to have to tussle or fight with you. He was very  
24 cooperative. I put him in handcuffs. Had to put him in  
25 actually two pairs of handcuffs because his shoulders are so

1 broad. And then once I got him in handcuffs, I said I smell  
2 marijuana. That's when he told me there was some --

3 MR. BUTLER: Objection.

4 THE COURT: Sustained.

5 Q (Mr. Kaufman) Like to show you what's been marked as  
6 Government's 22g for identification. Do you recognize that?

7 A That's Mr. Davis.

8 MR. KAUFMAN: Your Honor, seek to admit and publish.

9 THE COURT: Any objection?

10 MR. BUTLER: No, Your Honor.

11 THE COURT: Let it be admitted; may publish.

12 (Government's Exhibit No. 22g was received into  
13 evidence and published.)

14 Q (Mr. Kaufman) So what did you find?

15 A Search of the vehicle I found a suitcase in the back  
16 cargo area that contained approximately 30 pounds of  
17 marijuana.

18 Q I would like to show you 6b, 6c, 6d, and 6e. Do you  
19 recognize those photographs?

20 A Yes. That is in the -- those photographs, that's the  
21 black suitcase that I found in the back cargo area. Inside  
22 those is the marijuana that was inside.

23 Q So you recognize those. Are they fair and accurate  
24 representations of what you saw after stopping Jerry Davis'  
25 car?

1 A Yes, it is.

2 Q Or his Tahoe?

3 A Yes.

4 MR. KAUFMAN: Your Honor, we seek to admit and  
5 publish 6b through e.

6 THE COURT: Any objection?

7 MR. BUTLER: Yes, Your Honor.

8 THE COURT: Basis.

9 MR. BUTLER: Insufficient foundation at this point.

10 THE COURT: Overruled. Let them be admitted. You  
11 may publish.

12 (Government's Exhibits No. 6b, 6c, 6d and 6e were  
13 received into evidence and published.)

14 Q (Mr. Butler) Six-b is what?

15 A Six-b, this the suitcase.

16 Q Six-c.

17 A This is the suitcase that's opened. There's the bags of  
18 marijuana down inside.

19 Q Six-d.

20 A This is the suitcase after the marijuana's been removed,  
21 and these are some dryer sheets that's commonly placed with  
22 marijuana to mask the odor from the dog.

23 Q And six-e.

24 A And this is the marijuana laying on the -- this is the  
25 table at the Law Enforcement Center just outside the property

1 control where we turn evidence in.

2 MR. KAUFMAN: Your Honor, at this time I seek to  
3 read a stipulation to the jury.

4 THE COURT: Very well.

5 MR. KAUFMAN: Thank you, Your Honor.

6 Now comes the United States of America, by and  
7 through the United States Attorney for the Western District of  
8 North Carolina, as represented by Assistant United States  
9 Attorney Steven R. Kaufman and Norman Butler, Esquire, counsel  
10 for Defendant Parker Coleman, and advise the Court that they  
11 have entered into a stipulation that the green substance  
12 seized in this case that was suspected to be marijuana was  
13 tested by an expert forensic chemist and determined to be in  
14 fact marijuana. In making this stipulation, the defendant is  
15 not admitting that he conspired to distribute or to possess  
16 with intent to distribute marijuana or any controlled  
17 substance. In other words, the defendant merely agrees that  
18 the laboratory tests prove that the marijuana seized is  
19 marijuana. The defendant specifically denies the other  
20 elements of the drug charges in this case.

21 And will Your Honor be instructing the jury at a  
22 later time about stipulations?

23 THE COURT: I will.

24 MR. KAUFMAN: Thank you, Your Honor.

25 And Your Honor, consistent with the stipulation that

1 the marijuana itself would be admissible, we have here  
2 what's -- the bag containing all of this material is  
3 Exhibit 5. And we would seek to have this admitted and  
4 published as well, at this time, Your Honor.

5 THE COURT: Any objection?

6 MR. BUTLER: No, Your Honor.

7 THE COURT: Let it be admitted. You may publish.

8 MR. KAUFMAN: Thank you, Your Honor.

9 (Government's Exhibit No. 5 was received into  
10 evidence and published.)

11 MR. KAUFMAN: I'll just place the material on the  
12 edge of the desk here.

13 THE COURT: Members of the Jury, you will not be  
14 taking the marijuana back to the deliberation room.

15 MR. KAUFMAN: Your Honor, may I ask Officer Newman  
16 to come down from the witness stand to observe the material  
17 that's on counsel table.

18 THE COURT: If necessary, I mean, it's pretty  
19 observable from the stand. If there's a reason to come down,  
20 you certainly can ask him to do that.

21 MR. KAUFMAN: Let me ask you, if I may approach,  
22 Your Honor?

23 THE COURT: You may.

24 Q From the exhibit, the exhibit that's just been admitted,  
25 do you recognize these materials?

1 A I do. This is the marijuana that was in the suitcase.

2 Q And do you notice any differences between them?

3 A The difference is, this is a higher grade marijuana here.

4 It's -- if you look at the bags, it's a more of a bud form.

5 This is commonly --

6 MR. BUTLER: I would object at this point. I mean,  
7 he hadn't been qualified as an expert in marijuana.

8 THE COURT: You can testify to any visual observance  
9 that you made, but beyond that I'll sustain the objection.

10 THE WITNESS: Yes, sir.

11 This marijuana is what I'm trained in, is to be more  
12 potent.

13 MR. BUTLER: Objection.

14 THE COURT: I'll sustain the objection.

15 You can look at the marijuana and describe any  
16 physical differences.

17 THE WITNESS: Yes, sir.

18 MR. KAUFMAN: I believe you stated in the smaller  
19 package you just looked at, that's in bud format?

20 MR. BUTLER: Well, objection to the -- by the  
21 prosecutor.

22 THE COURT: Pardon me?

23 MR. BUTLER: Well, I mean, I was objecting, Your  
24 Honor, because the prosecutor was testifying, at this point.

25 THE COURT: I think he was testifying as to the --

1 well, I think he was asking a question based upon previous  
2 testimony, but I'll sustain as to form.

3 Go ahead and ask another question.

4 Q (Mr. Kaufman) With regard to the other substance on here,  
5 how does it compare, in terms of its appearance, to you?

6 A This is harder compressed in brick form marijuana. This  
7 is bud type, more loosely packaged marijuana.

8 Q Let me ask you, how many marijuana-related investigations  
9 and arrests have you taken part in?

10 A A couple hundred.

11 Q That's dealing solely with marijuana?

12 A Yes, solely with marijuana. Hundreds. I don't keep the  
13 exact count, I'm sorry.

14 Q And are you familiar with the different types of  
15 marijuana? Like, have you seen what you just described as bud  
16 like marijuana?

17 A Yes, I have. I've seen that numerous times.

18 Q Are you also familiar with, based on your training and  
19 experience and law enforcement as a narcotics detention  
20 officer, the compressed style?

21 A Yes, I have, numerous times.

22 Q And have you developed a familiarity with the differences  
23 between types of marijuana?

24 A Yes, I have.

25 Q So with regard to the brick type format. What is your --

1 based on your training, how does that differ from the bud like  
2 format?

3 MR. BUTLER: Objection.

4 THE COURT: Sustained.

5 Q Now did you also conduct another traffic stop on November  
6 2nd, 2010?

7 A Yes, I did.

8 Q And can you describe what happened?

9 A Things were kind of busy at that time. I was requested  
10 to stop a vehicle right there in the same area of Fairview and  
11 Barclay Downs Road.

12 Q What happened? Did you in fact stop the vehicle?

13 A I did. It was -- the vehicle was occupied by -- driven  
14 by a black female. It was occupied in the passenger seat,  
15 there was a black male. And then in the back seat there was a  
16 black male. It was occupied three times.

17 The vehicle actually pulled off the roadway down into  
18 Barclay Downs into the parking lot of Bank of America branch  
19 office that's right there at the corner of Fairview Road and  
20 Barclay Downs.

21 Q Do you recall approximately how long it was between the  
22 stop of Jerry Davis and the stop of this other vehicle of  
23 three people?

24 A Approximately maybe two hours. I don't know the exact  
25 time, but about two hours. It was that same day, but it was

1 after the traffic stop of Jerry Davis.

2 Q While you were stopping the vehicle with the three  
3 people, the second stop, what were you able to observe, if  
4 anything, happen inside the vehicle?

5 A I was dealing with the black female. I actually asked  
6 her to exit the vehicle. She was standing in front of my  
7 vehicle. I was speaking with her. At the time I knew there  
8 was some undercover detectives that were around me. And they  
9 observed and related to me over the radio --

10 MR. BUTLER: Objection.

11 THE COURT: Overruled.

12 THE WITNESS: -- that the front passenger was doing  
13 something down in the center --

14 MR. BUTLER: Objection to furtive conduct. Hearsay.

15 MR. KAUFMAN: It goes to what the --

16 THE COURT: I'll overrule it. Present sense  
17 impression exception.

18 You may testify.

19 THE WITNESS: Was reaching down into the floorboard  
20 area of the car. Didn't know -- it's a traffic stop, we're  
21 doing a drug investigation. So at the time felt it necessary  
22 to detain these subjects and take them into custody because  
23 didn't know if they were going for a gun or something.

24 So at that time I went over to the passenger side  
25 and immediately took the driver at the same time the

1 undercover detectives exited their vehicles and approached as  
2 well, and I took both the passengers into custody at that  
3 time.

4 Q (Mr. Kaufman) What if anything did you find inside the  
5 vehicle?

6 A While observing inside the vehicle, what it appeared, the  
7 center console -- not the center console, but the glove box is  
8 to the right of the center console, there was a -- it was  
9 trying to be shut back and money was bulging out of it. It  
10 was like money was trying to be shoved down in there and it  
11 was closed. That's what he was -- we come to find that he was  
12 messing with trying to get that glove box to close back.

13 Q Were you able to see during the traffic stop and what  
14 happened thereafter? Were you able to see the money that was  
15 in the glove box?

16 A Yes, I mean --

17 Q Could you tell how much money there was?

18 A I don't know exactly how much it was. It was more than  
19 would fit in that glove box. It was a pretty good bit.

20 Q All right. I'd like to show you what's been marked as  
21 Government's Exhibit 7a, 7b, 7c.

22 MR. BUTLER: I can't see anything.

23 MR. KAUFMAN: Sorry. Let me go back.

24 Q Let me ask you, do you recall what kind of vehicle it  
25 was?

1 A It was a gray in color, two-door sports car.

2 Q Showing you what's been marked as 7d for identification.  
3 I'll go back to 7a, 7b, and 7c. Do you recognize all four  
4 photographs?

5 A Yes. These are the people that were there that day at  
6 the traffic stop.

7 Q Are they a fair and accurate representation of what you  
8 saw that day?

9 A Yes, they are.

10 MR. KAUFMAN: At this time we seek to admit and  
11 publish 7a through d.

12 THE COURT: Any objection?

13 MR. BUTLER: No objection.

14 THE COURT: Let them be admitted. You may publish.

15 MR. KAUFMAN: Thank you, Your Honor.

16 (Government's Exhibits No. 7a, 7b, 7c & 7d were  
17 received into evidence.)

18 Q Starting with 7d.

19 A This is the traffic stop -- the vehicle that I conducted  
20 traffic stop on after it pulled into the PVA. That's actually  
21 me behind the vehicle and that's my patrol car to the right.

22 Q You mentioned PVA, what does that mean?

23 A I'm sorry. That's the parking lot. Public vehicle area.  
24 That's the parking lot of Bank of America there at Barclay  
25 Downs.

1 Q All right. And 7a, who is that?

2 A This is the female that was driving the vehicle.

3 Q And is that you on the right side of the car?

4 A That's me there to the right, yes.

5 Q And 7b.

6 A This is one of the passengers.

7 Q And 7c.

8 A This was the other passenger.

9 Q And just off the top of your head, do you recall the  
10 names of any of those three?

11 A One's name is Shaunda and one was named Mr. Harris, and I  
12 believe a McAdoo. I don't remember the names right off hand.  
13 I'm sorry.

14 Q About how many traffic stops have you done since November  
15 2nd, 2010?

16 A I do many, many traffic stops. I -- probably a couple  
17 hundred since then, maybe even more. I'm not really sure.

18 Q All right. Did you at any point take possession of the  
19 money that was in the vehicle?

20 A No. It was removed and turned over to the detectives  
21 that were there at the scene.

22 Q All right. Just off the top of your head, do you  
23 remember who received the money?

24 A Agent MacDonald. I remember he was at the scene.

25 Q And just to confirm, do you recognize what's been

1 admitted as Exhibit 5, the actual marijuana as the marijuana  
2 that you had seized from Jerry Davis' vehicle?

3 A Yes, that was in the suitcase, yes.

4 MR. KAUFMAN: No further questions, Your Honor.

5 THE COURT: Any cross?

6 MR. BUTLER: Yes, Your Honor. Thank you.

7 CROSS EXAMINATION

8 BY MR. BUTLER:

9 Q Good afternoon, Officer Newman.

10 A Good afternoon, Mr. Butler.

11 Q Officer Newman, you worked with this K-9 Ice; is that  
12 right?

13 A Yes, sir.

14 Q And you indicated that the K-9 was trained, among other  
15 things, to detect controlled substances such as marijuana; is  
16 that right?

17 A Yes, sir.

18 Q And now the dog is not perfect, is it?

19 A Nobody's perfect.

20 Q Well, we're talking about the animal, not the person.

21 A The animal. Nobody is perfect, no, sir. Nothing's  
22 perfect.

23 Q Okay. So from time to time the dog has some -- Ice has  
24 some false alerts; isn't that correct?

25 A Not in any controlled environment and certification.

1 Q Okay. Well when -- okay. Well, I thought you said the  
2 dog was 99 percent accurate? Where is that 1 percent?

3 A In that -- the 1 percent that you're talking about in  
4 certifications one day, me and the dog will act as a team.  
5 And when I took her into the room to present the room to her,  
6 it is my job to present everything to that dog. And it was  
7 my -- and that day I didn't present everything to her.

8 Q Okay.

9 A And we missed it.

10 Q Okay. Well, so the dog then depends on you, is that what  
11 you're saying?

12 A We work together as a team.

13 Q Okay. So you basically help the dog do what it does; is  
14 that right?

15 A The dog is a tool. And I make sure that I use that tool  
16 in the way that I'm supposed to, presenting everything to her.

17 Q Okay. Now, on the occasion -- strike that.

18 I thought you indicated initially that certain dogs are  
19 passive, correct?

20 A Yes, sir.

21 Q And if they're not passive then they're what?

22 A They can be trained two different ways in my training,  
23 passive or aggressive.

24 Q Okay. And passive is when they just go and sit down; is  
25 that correct?

1 A Passive is when they get into the odor of the narcotics,  
2 they work it, and once they come to the resolution in their  
3 mind that they're looking for what they've been trained to,  
4 they will sit passively next to the narcotics.

5 Q Okay. So ultimately a passive K-9 sits down?

6 A Yes, sir.

7 Q Okay. And an aggressive K-9 scratches or barks or do  
8 those type of things; is that right?

9 A Yes, sir. That's right.

10 Q Now on the occasion at the airport --

11 A Yes, sir.

12 Q -- when I believe you indicated that there was a lineup  
13 of boxes; is that right?

14 A Yes, sir.

15 Q And do you recall how many boxes there were?

16 A I believe there's five boxes that day, cause I try and  
17 keep everything the same. Sometimes finding boxes at the  
18 airport -- that day there was five boxes.

19 Q Okay. And is it your testimony that Ice alerted  
20 passively or aggressively?

21 A Passively.

22 Q Okay. So if Officer Bergs said it was -- they started  
23 scratching and acting aggressively, that's not correct?

24 A What will happen is, in their training is, they're  
25 trained aggressively, as I stated earlier, and then they're

1 switched to passive. The dog will sniff, smell, scratch at  
2 the box, do something. Then once it comes to resolution, it  
3 sits passively. These dogs are very high strung dogs. That  
4 get very excited, and then they sit. That's what they're  
5 indication is, to sit. They don't keep digging or do any --  
6 tear up stuff. That's why we go through the extra effort to  
7 train the dog to be passive, so it doesn't tear up stuff like  
8 a car or something like that.

9 Q Okay. So, sir, my question is simple. Now --

10 MR. KAUFMAN: Objection.

11 THE COURT: Overruled.

12 Q Is Ice passive or aggressive?

13 A She's a passive dog.

14 Q Okay. Now on the occasion at the airport, did you, as a  
15 result of this passive alert, discovered any controlled  
16 substances?

17 A No I did not. I wasn't the investigator.

18 Q As a result of the alert by Ice, I mean, did you actually  
19 see what was the content of the box?

20 A Yes. I saw the money afterwards.

21 Q Now on the occasion later on that day when you stopped  
22 Mr. Davis, you had a mobile video camera in your police car,  
23 did you not?

24 A Yes, sir I did.

25 Q And it was recorded; is that right?

1 A At that time that was November, we got a new -- I had an  
2 old VHS system that the CMPD was currently swapping out. And  
3 I hadn't received a new video camera system, so mine was  
4 inoperable. I received a new digital video camera system that  
5 following month. At that time -- that day there was no camera  
6 recording.

7 Q So are you saying nobody recorded it; is that right?

8 A As far as I -- I don't know what somebody else did with  
9 the recordings. But in my vehicle it wasn't being recorded.

10 Q Okay. Okay. So you've never seen the recording of that  
11 stop?

12 A Not, no. Not as I --

13 Q Now, but do you recall -- didn't you sit Mr. Davis on the  
14 ground?

15 A Yes, I did sit him on the ground.

16 Q All right. And some other officers arrived?

17 A Yes.

18 Q -- at the location?

19 A There was one other backup officer. I think he parked  
20 behind me.

21 Q And at some point Agent Bryant arrived. Do you remember  
22 him arriving?

23 A Yes, sir, I do.

24 Q Okay. Now in regards to the marijuana that was displayed  
25 here in the courtroom this afternoon, you have no personal

1 knowledge as to where it came from, correct?

2 A No, sir. No, sir. I know it came from that vehicle.

3 Q Okay. And where exactly was it in the vehicle?

4 A It was in the back cargo area.

5 Q And as soon as Mr. Davis rolled his window down, was --  
6 was it -- when you were approached, was it up or down?

7 A I think it was down. He was rolling it down as I walked  
8 up to the vehicle.

9 Q And you detected the odor of marijuana; is that right?

10 A Yes, fresh marijuana.

11 Q Okay. So it was fresh, is that what you're saying?

12 A Yes, fresh.

13 Q Okay. And when you say fresh, can you tell the ladies  
14 and gentlemen of the jury what you mean by that?

15 A It wasn't burnt marijuana like someone had been smoking.  
16 It was fresh. The bud like marijuana has a -- is a very, very  
17 strong odor to it; very, very fresh strong odor. And so  
18 that's the odor I was smelling. There was 30 pounds of it,  
19 it's hard to hide that odor. But the bud marijuana is usually  
20 what's the very strong odor marijuana.

21 Q Now, well, did you -- did you search Mr. Davis?

22 A Yes, sir. I patted him down, searched him, handcuffed  
23 him and then sat him down.

24 Q Okay. Did you seize anything other than the marijuana?

25 A I believe some -- the detectives -- Mr. Bryant came up

1 there to seize some of his phones and stuff, some stuff he had  
2 on him.

3 Q Did you -- were you present when law enforcement  
4 officials went to Mr. Davis' house?

5 A No, I was not.

6 Q And so you don't know whether they seized more marijuana?

7 A I know I went to the residence later that evening.

8 Q Yes, sir.

9 A But I didn't go into the house or anything, and I knew  
10 that there was some other marijuana located as well.

11 Q Well, did you know it was about 40 more pounds of  
12 marijuana in his house?

13 A I didn't know the exact number, but I went to that  
14 location and then we all turned it in together. So I knew  
15 there was more found that night in the investigation. But I  
16 wasn't involved, actively, in that part of the investigation.

17 Q Okay. Well, now, did you label the marijuana in any  
18 particular manner to be certain that this is the same  
19 marijuana that you took out of that -- was it a Chevy Tahoe?

20 A Well, it was photographed. That's why we photograph it  
21 so I can attest to what I saw that night.

22 Q Okay. But so -- so the photograph should look just like  
23 this; is that right?

24 A Yes.

25 Q And the containers are in the same condition as when you

1 saw it on that occasion; is that right?

2 A Yes. The suitcase and everything that was in the  
3 photograph. That's why we photograph it.

4 Q Okay. It's not in the suitcase now, is it?

5 A No, it wasn't. It was laid out.

6 Q Now you were subsequently called out to this public  
7 vehicle area at the bank, I think you said, at Fairview and  
8 where?

9 A Barclay Downs.

10 Q Okay.

11 A Fairview Road at South Park Mall area.

12 Q All right. And of course that was the stop of the three  
13 individuals of the black females and two black males that were  
14 depicted on the government exhibits; is that right?

15 A Yes, sir, that's correct.

16 Q And was it your video camera that recorded that situation  
17 or somebody else?

18 A I didn't.

19 Q You didn't?

20 A No.

21 Q Okay. And but you all -- you were -- you got her out of  
22 the car and you talked to her about her driver's license; is  
23 that right?

24 A Actually, I -- I actually got her out of the car, yes,  
25 and I was talking to her. And while I was talking to her is

1       when the other detectives, officers on the scene observed the  
2 front passenger do --

3       Q       Okay. And I can appreciate that. But I'm just concerned  
4 about what you did, okay?

5       A       Okay.

6       Q       Now at some point you get out of your vehicle; is that  
7 right?

8       A       Yes, sir. I always do when I do a traffic stop.

9       Q       Now, were you in a -- just a regular patrol car, or were  
10      you in the type of -- SUV type of K-9 unit?

11      A       In the picture you'll see my patrol car. It was a  
12      regular typical Ford Crown Victoria marked with CMPD stripes,  
13      the same as all the other cars are.

14      Q       Okay. Now, you -- you had conversation with all three  
15      individuals in that vehicle; is that right?

16      A       Yes, sir, I believe so.

17      Q       And you were concerned, obviously, for officer safety?

18      A       Yes, when he was reaching into the floorboard area,  
19      center of him down into the floorboard area.

20      Q       And at some point you were given a consent to search the  
21      vehicle, or at least law enforcement were; is that correct?

22      A       I -- well, I developed PC at the time for officer safety  
23      purposes.

24      Q       Okay.

25      A       Once it was relayed over the radio and about the same

1 time I seen detectives getting out of their vehicles  
2 approaching, I went over to the passenger side and -- to see  
3 what he was doing, and that's when we took him into custody.

4 Q So when did you see this money that you said wouldn't fit  
5 in the glove box?

6 A After he was taken out of the vehicle, and I investigated  
7 what he was doing while I was on the traffic stop --

8 Q Okay.

9 A -- for officer safety purposes, hiding a gun, whatever.  
10 That's when the money was found. I searched the immediate  
11 area around that front passenger.

12 Q And of course now you -- you didn't see my client  
13 Mr. Parker Coleman out there, did you?

14 A No, sir.

15 Q And one of those individuals claimed the money, did they  
16 not?

17 A I do not recall.

18 Q You don't recall that?

19 A I'm not the investigating officer.

20 Q I understand who you are. I do. Okay. But you don't  
21 recall that?

22 A I didn't ask that question.

23 Q Okay. And wouldn't it be fair to say that the  
24 detectives, as you called them, they were not dressed  
25 necessarily in a blue police uniform like you are?

1 A No, they wasn't. Some of them had their tach gear on it,  
2 like police vests over top.

3 Q And they had what appeared to be, what I'm going to  
4 describe and correct me if I'm wrong, looked like machine  
5 guns, didn't it?

6 A No, they didn't have machine guns.

7 Q What kind of guns did they have? They had long guns?

8 A They had their guns, yes. I don't know who was carrying  
9 what.

10 Q Okay.

11 A I do know that when I work with them, they do have their  
12 weapons.

13 Q Right.

14 A I can't attest who had what.

15 Q You can't recall?

16 A I can't attest -- it's not that I don't recall, I just  
17 don't know what they carry, they're individuals. I know what  
18 I carry.

19 Q Well, okay --

20 A So, I mean, you're asking me to recall something that I  
21 don't know.

22 Q Let me ask you another question.

23 A Okay.

24 Q They had their weapons drawn, whether they were short  
25 weapons or .40 caliber like you had; is that right?

1 A Yes, sir. They had their weapons out.

2 Q Do you recall how many of them were there?

3 A I have no idea. I mean, there's detectives around me. I  
4 knew there was probably at least four or five.

5 Q Do you remember if Agent Todd Elmore was there?

6 A Yes, I believe he was there, yes.

7 Q Okay. Now, and other than this money, did you find  
8 anything else?

9 A No, sir.

10 Q Were you able to determine whose vehicle it was, if you  
11 recall?

12 A I believe the vehicle came back to the female that was  
13 driving. I'm not exactly sure, but I don't really recall  
14 exactly.

15 Q Well, now typically in a traffic stop you run the tag,  
16 don't you?

17 A Yes, sir.

18 Q That determines who the vehicle is registered to?

19 A Exactly. And I did that day, but I don't remember who it  
20 came back to.

21 Q Now did you have an occasion on the second of November of  
22 2010 to go to 5425 Closeburn, Apartment 115?

23 A Yes. That's the apartment the search warrant was done.  
24 Yes, sir. I went there.

25 Q And you went there too?

1 A Yes, sir.

2 Q You take your dog with you?

3 A Yes, sir.

4 Q And did you walk down the hallway?

5 A Yes, sir I did.

6 Q Anything unusual about -- as you walk down the hallway?

7 A No just a typical hallway. I think it had red carpet.

8 Q Had red carpet?

9 A Yeah, I believe so. I remember it was very nice, a very  
10 nice apartment.

11 Q Okay. Now during this search warrant of the Closeburn  
12 unit, do you recall where any marijuana was seized?

13 A I don't recall. I do recall there was an odor of  
14 marijuana with the residence.

15 Q In the residence?

16 Do you recall which individual claimed the money that was  
17 in the glove box?

18 A No, I do not.

19 Q Okay.

20 MR. BUTLER: If I could have a moment, please, Your  
21 Honor?

22 (Pause.)

23 MR. BUTLER: Thank you very much for answering my  
24 questions.

25 THE COURT: Any redirect?

1 MR. KAUFMAN: Yes, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. KAUFMAN:

4 Q Officer Newman, you used the term that you had  
5 established PC.

6 For the jury, can you explain what the acronym PC stands  
7 for and what that means?

8 A It's probable cause. In a vehicle, there's like a  
9 expectation of privacy under the Fourth Amendment, in my  
10 training.

11 When somebody's doing something, other than just sitting  
12 there when I'm on a traffic stop -- traffic stops are  
13 inherently dangerous and they have been proven so. The  
14 numerous traffic stops have been done by numerous officers  
15 over numerous years, since vehicles have been around.

16 When it was observed that something was going on, if you  
17 have reason to believe that they might be trying to do  
18 something. So that's the reason the determination was made to  
19 go and take them into custody. Not arrest them, but detain  
20 them for safety purposes.

21 I'm there by myself, as far as they know. Other officers  
22 there were backing them up, but they weren't seeing the  
23 officers. They weren't a visible presence. So once they're  
24 taken out of the vehicle, I did a search of the immediate area  
25 to where they was at.

1           THE COURT: All right. Listen carefully. The  
2 question was, "For the jury, can you explain what the acronym  
3 PC, what does that mean?"

4           This has been a pretty long answer, so ask your next  
5 question.

6           MR. KAUFMAN: Yes, Your Honor. We can move on.

7 Q        You were asked about the -- to whom the Lexus was  
8 registered. Is there anything that would be able to refresh  
9 your recollection?

10 A       The printouts that, you know, from the DMV.

11 Q       Is there anything else in addition to that?

12 A       Any -- anything that I ran that day through the computer  
13 system, if it was documented.

14           MR. KAUFMAN: Your Honor, I'm showing a report  
15 that's been provided to the defense previously in discovery,  
16 and I'm marking --

17           MR. BUTLER: Thank you.

18           THE COURT: Doing it for refreshed recollection  
19 purposes?

20           MR. KAUFMAN: That's correct, Your Honor.

21           THE COURT: You may do that.

22           MR. KAUFMAN: Thank you, Your Honor.

23           THE COURT: Go ahead and mark it, you know, refer to  
24 it, at least, by a number.

25           MR. KAUFMAN: Yes, Your Honor.

1           And I'm marking it as Government's Exhibit 62 for  
2 identification purposes only.

3       Q    Officer Newman, if you could review this report, without  
4 reading from the report itself, if you could let us know if it  
5 refreshes your recollection as to the registered owner of the  
6 Lexus?

7       A    The vehicle came --

8           THE COURT: The question is, does that refresh your  
9 recollection.

10          THE WITNESS: Yes, it does. I'm sorry, Your Honor.

11       Q    (Mr. Kaufman) Okay. I've now retrieved Government's  
12 Exhibit 62 for identification.

13          If your recollection is still refreshed, if you could  
14 state who the Lexus was registered to?

15       A    To Shaunda Peppers.

16       Q    I'm sorry. To --

17       A    Peppers, that's what I read.

18       Q    The last name is Peppers?

19       A    Peppers, yes.

20       Q    Now when you seized the marijuana, is there any kind of  
21 paperwork you have to fill out?

22       A    Yes. We have inventory property sheets that we fill out  
23 and then we turn the marijuana in.

24       Q    When you turn the marijuana -- so there's a property  
25 sheet. What kind of information do you include on that?

1 A The case numbers, the name of the defendant, date, time  
2 the marijuana was seized. And then you have a inventory list,  
3 you write down the package number, how much it weighed, and  
4 then everything is out and listed in order and documented.

5 Q Okay. Now --

6 A It's on a --

7 Q Government Exhibit 5 that's been admitted. If the bag  
8 has the control number 201032338, would you expect that same  
9 control number to be on the property report?

10 A Yes. Those are the -- when it's turned into property,  
11 those are the numbers that are assigned to that evidence when  
12 it's turned in.

13 Q And that's a control number. And would you expect the  
14 complaint number which is indicated on Exhibit 5 as  
15 20101102132601, would you expect that on your property report?

16 A Yes.

17 Q Like to show you what's been marked for identification as  
18 Government's Exhibit 41a.

19 Do you recognize this document?

20 A Yes. This is our property sheet or property reports --

21 Q Do you recognize this particular one?

22 A Yes. This is the one I filled out for that evening.

23 MR. KAUFMAN: And at this point, Your Honor, we'd  
24 seek to admit this and publish it to the jury.

25 THE COURT: Any objection?

1 MR. BUTLER: No, Your Honor.

2 THE COURT: Let it be admitted and may publish.

3 (Government's Exhibit No. 41a was received into  
4 evidence and published.)

5 Q If you look at the control number in box two, on the top  
6 line, complaint number in box three. Is that in fact -- are  
7 they the same numbers that are on the bag into which you  
8 placed the marijuana seized?

9 A Yes. The complaint number is the same. And then the  
10 control number that's issued by property control is the same.

11 Q And in the middle of this form 41a, do you recognize the  
12 signature?

13 A Yes. That's my signature right in the middle to the  
14 right, offset a little bit.

15 Q Okay. So based on chain of custody, are you -- how  
16 confident are you that the marijuana that's here in court in  
17 Exhibit 5 is the same that you seized according to 41a?

18 A I'm very confident that's -- Majority of that writing  
19 there in the center is my handwriting.

20 MR. KAUFMAN: Nothing further, Your Honor.

21 THE COURT: You may step down and be excused. Call  
22 your next witness.

23 MR. BUTLER: Judge, I have a question I would like  
24 to --

25 THE COURT: You have a recross on something new in

1 redirect?

2 MR. BUTLER: Sir?

3 THE COURT: Do you have something new that was  
4 covered on redirect that hasn't been covered on cross?

5 MR. BUTLER: Yes, Your Honor.

6 THE COURT: All right. Very briefly.

7 MR. BUTLER: Thank you.

8 RECROSS EXAMINATION

9 BY MR. BUTLER:

10 Q Officer Newman, you recall it wasn't a Lexus, was it,  
11 this vehicle that you stopped?

12 A I -- I don't --

13 MR. BUTLER: May I approach and see if it refreshes  
14 his recollection, Your Honor?

15 THE WITNESS: Which vehicle are you talking about?

16 THE COURT: Well, ask him -- I mean, you can ask him  
17 if he recalls, then you can refresh recollection.

18 Q (Mr. Butler) Do you recall whether it was a Lexus or not?

19 A A Lexus or what?

20 Q Do you recall whether it was a Lexus or some other type  
21 of vehicle, sir?

22 A No, sir. I don't recall. I remember it was a silver  
23 sports -- it was pointed out to me by detectives. It was  
24 right there in the area, and I was guided to it through the  
25 radio communication.

1 MR. BUTLER: Now may I approach him, Your Honor?

2 THE COURT: You may.

3 MR. BUTLER: Thank you.

4 Q Let me just show you Government's -- I think it's 62 --  
5 and ask you to look right there and just read it to yourself,  
6 please?

7 A Point for me one more time.

8 Q (Indicating.)

9 A Okay.

10 Q Okay?

11 A Yes, sir.

12 Q All right. Now, does that refresh your recollection as  
13 to what type of vehicle it was?

14 A Yes, sir, it does.

15 Q And what type was it?

16 A It says in that report there, Infiniti.

17 Q I'm sorry?

18 A It says in the report, Infiniti.

19 Q And on the property sheet you indicated that it was about  
20 26 pounds of marijuana that you turned in?

21 A Yes, sir.

22 Q Okay. It wasn't 30 pounds?

23 A No, sir.

24 Q But 26.

25 A That was what it weighed out to.

1 Q Okay. And so in regards to the probable cause that you  
2 explained to the ladies and gentlemen of the jury, you stopped  
3 the Infiniti without probable cause, didn't you?

4 A I stopped it because other detectives were asking me to  
5 stop it.

6 Q Okay.

7 A They had developed it. I was assisting them.

8 Q Okay. So, but you don't know what they developed. They  
9 just told you to stop it and you did?

10 A That's correct. Yes, sir.

11 MR. BUTLER: I don't have any further questions.

12 Thank you.

13 THE COURT: You may step down, be excused.

14 Call your next witness.

15 MR. KAUFMAN: Special Agent James Bryant.

16 JAMES BRYANT, GOVERNMENT WITNESS, SWORN

17 DIRECT EXAMINATION

18 BY MR. KAUFMAN:

19 Q Good afternoon.

20 A Good afternoon.

21 Q Could you introduce yourself to the jury, please?

22 A James Bryant. Special agent with Homeland Security  
23 Investigations.

24 Q How long have you been in law enforcement?

25 A Twenty years.

1 Q How many of those years with Homeland Security  
2 Investigations and its predecessors, it had prior names?

3 A Fifteen years.

4 Q And those first five years, were with?

5 A Fayetteville Police Department in Fayetteville, North  
6 Carolina.

7 Q Of those 20 years, how many years were related to the  
8 investigation of drug trafficking?

9 A At least 18.

10 Q Can you give an approximation as to how many drug-related  
11 investigations and arrests you've taken part in?

12 A Hundreds. Several dozen hundreds. It's hard to say,  
13 numerous.

14 Q Let me ask you, are you familiar with the term  
15 "cooperator"?

16 A Yes, sir.

17 Q What does that mean to you?

18 A It's a term used where someone in trouble, indicted, in  
19 custody, however you want to word it, that's assisting law  
20 enforcement with the ongoing investigation.

21 Q Now what are some of the ways they can do that?

22 A Make telephone calls, contact other targets or  
23 face-to-face meeting. They can go to different locations that  
24 we, as in law enforcement might not be able to, and report  
25 back to us, several different ways.

1 Q In your experience, are firearms ever involved in your  
2 investigations?

3 A Yes, sir.

4 Q Why is that?

5 A It's just part of the trade. It's kind of a protection  
6 type thing with the drug trade and it's just part of it.

7 Q And when you say it's part of the trade and it's for  
8 protection, protection from what?

9 A Drugs.

10 Q I'm sorry. Protection from what?

11 A Other drug dealers, drug traffickers, to protect your  
12 business, sort of, from someone coming in or taking over what  
13 you might have established.

14 Q And just from drug dealers?

15 A I'm sorry. Say again?

16 Q Is it protection just from drug dealers?

17 A Well, I would say it's used against law enforcement as  
18 well.

19 MR. BUTLER: Objection. Move to strike.

20 THE COURT: Overruled.

21 Q (Mr. Kaufman) And when you say tool of the trade for  
22 protection, you said from whom. But what is the purpose?  
23 What would a drug trafficker be possessing a firearm to  
24 protect?

25 A His drugs.

1 Q And is that it?

2 A Property, drugs, just whatever else you would need for  
3 protection.

4 Q I would like to turn your attention to November 2nd of  
5 2010. Did you assist CMPD Chris Newman with a traffic stop?

6 A Yes, sir.

7 Q Can you describe what happened?

8 A That particular day surveillance was set up on a location  
9 off Fairview Road. A vehicle had left a location over there.  
10 Officer Newman, at the instructions of the case agent,  
11 followed that vehicle out, observed a traffic violation,  
12 conducted a traffic stop on the vehicle.

13 Q What happened next?

14 A At that particular time I pulled into an apartment  
15 complex and was witnessing the traffic stop, kind of staying  
16 out of sight. I observed Officer Newman remove the subject  
17 from the vehicle.

18 I observed him approach the vehicle first. At some point  
19 in time he came back on the radio said he smelled marijuana.  
20 He went back to the vehicle. He removed the subject from the  
21 vehicle and detained him.

22 Q And do you recall the name of the subject?

23 A I'm sorry. Say again?

24 Q Do you remember the name of the person?

25 A Yes, sir.

1 Q What's the name?

2 A Jerry Davis.

3 Q And did you come on scene and speak with Mr. Davis?

4 A Yes, sir.

5 Q What happened?

6 A At that particular time I went, met with Mr. Davis. I  
7 placed him in my vehicle. He had agreed to cooperate with the  
8 ongoing investigation. He had made statements that he sort of  
9 knew --

10 MR. BUTLER: Objection.

11 THE COURT: I'll sustain as to what Davis said.

12 Q (Mr. Kaufman) Without going into the details of what he  
13 told you, based on what he told you, what did you do next?

14 A Based on what he told me we set in my vehicle and started  
15 recording the telephone calls.

16 Q Are you familiar with the term "consensually recorded  
17 calls?"

18 A Yes, sir.

19 Q What's that?

20 A That's where the cooperator agrees to record the phone  
21 call. And he will record any phone call placed or received on  
22 his phone.

23 Q Are there certain procedures that you follow when you  
24 make a consensually recorded phone call with a cooperator?

25 A Yes, sir.

1 Q Can you describe those for the jury?

2 A Well, the procedure is, before or after the phone call is  
3 made you place a time stamp or header on it, and that will  
4 give you agent's name, date, time, the telephone number, and  
5 certain information as to what the call was about.

6 Q And did in fact Mr. Davis make a consensually recorded  
7 call to anybody?

8 A Yes, sir.

9 Q Do you remember how many calls that he had while he was  
10 with you?

11 A He received a couple phone calls and he made at least two  
12 or three phone calls.

13 Q Did he make -- sorry. Did he make a phone call to a  
14 person that he identified as the person from whom he had  
15 received the marijuana?

16 MR. BUTLER: Objection.

17 THE COURT: Overruled.

18 THE WITNESS: Yes, sir. He did.

19 Q (Mr. Kaufman) All right. Like to -- and let me ask you,  
20 after placing the call to that person, did he receive an  
21 incoming call from a female as well?

22 A Yes, sir, he did.

23 Q All right. Like to -- I'm showing defense counsel what's  
24 been provided previously in discovery, what have been marked  
25 for identification purposes at this point as Exhibits 15 and

1 16.

2 MR. BUTLER: Thank you.

3 Q (Mr. Kaufman) Showing the you disk. Do you recognize it?

4 A Yes, sir.

5 Q How do you recognize it?

6 A It's a disk where a digital translation was placed on  
7 some recorded calls, and that's my signature at the bottom, my  
8 initials at the bottom.

9 Q And does -- by initialing it, were you indicating that it  
10 was a fair and accurate recording or a copy of the recording  
11 that you made on November 2nd, those two calls we just  
12 discussed?

13 A Yes, sir.

14 MR. KAUFMAN: Your Honor, at this time we'd seek to  
15 admit 15 and 16, and with one more issue, then I'll seek to  
16 have it published.

17 MR. BUTLER: Objection.

18 THE COURT: Overruled. I'll admit them.

19 (Government's Exhibits No. 15 & 16 were received  
20 into evidence.)

21 Q (Mr. Kaufman) Agent Bryant, did you have an opportunity to  
22 review transcripts of those two calls in Exhibits 15 and 16  
23 which are now in 15a and 16a?

24 A Yes, sir.

25 Q And were they accurate transcripts of the recordings?

1 A Yes, sir.

2 MR. KAUFMAN: Your Honor, at this time we seek to  
3 have Exhibits 15a and 16a published. And 15 and 16, just to  
4 aid the jury in their review of those two phone calls, we  
5 would like to have them played alongside them.

6 MR. BUTLER: Objection.

7 THE COURT: Basis?

8 MR. BUTLER: Well, Your Honor, at this point  
9 Mr. Davis is in custody and we would contend --

10 MR. KAUFMAN: Objection. Objection, Your Honor.  
11 First of all that's untrue --

12 THE COURT: Hush.

13 Members of the Jury, we're going to take our  
14 afternoon break at this time. And this is the first break  
15 during the trial so I'm going to tell you what I will say to  
16 you over every break, and that is, that you should not talk  
17 about the case even amongst yourselves, and definitely not  
18 with anyone else. It's important to the integrity of the  
19 process that you don't talk about the case until you begin  
20 your deliberations at the end of the case. The other thing  
21 that I would tell you is that you should keep an open mind  
22 because you haven't heard all the evidence or the instructions  
23 of the Court. So keep an open mind until all the evidence is  
24 in and you've heard the instructions of the Court. So with  
25 those two instructions we'll take our afternoon break and

1 we'll see you in 15 minutes.

2 (The jury was escorted from the courtroom.)

3 THE COURT: I will instruct counsel that when I ask  
4 for an objection, that you not testify. And when you're  
5 responding to an objection, that you don't also testify. You  
6 two are too experienced to be doing that. And so I hope  
7 that's the last time we have that conversation.

8 With respect to these exhibits Mr. Butler, what is  
9 your objection?

10 MR. BUTLER: If Your Honor, please, I apologize, but  
11 I was trying to anticipate -- most of the time when I object,  
12 Your Honor, you ask me for a reason.

13 THE COURT: Yeah, but the reason is not for you to  
14 tell the jury who and who's not in custody. I mean, that's a  
15 totally improper thing to do.

16 MR. BUTLER: Well, I apologize for that.

17 My -- but the grounds for my objection is that  
18 Mr. Davis was in custody. Officer Newman had put him in  
19 custody. He was handcuffed, two sets of handcuffs. Then  
20 Agent Bryant came out of the area and began to talk to him.

21 THE COURT: And what rule of evidence does someone  
22 being in custody in handcuffs implicate?

23 MR. BUTLER: Your Honor, my objection was  
24 basically --

25 THE COURT: Your objection has to be grounded in a

1 rule of evidence. And so when I ask you for the basis of an  
2 objection, that's what I'm asking you for.

3 MR. BUTLER: Yes, sir.

4 THE COURT: What is it? I still don't know what it  
5 is?

6 MR. BUTLER: At that point, Your Honor, we would  
7 contend that because he was in custody, he was not an active  
8 participant in the conspiracy.

9 THE COURT: So your objection is that it's not an  
10 801(d)(2)(e) statement?

11 MR. BUTLER: Exactly.

12 THE COURT: That's an easy thing to do, and I  
13 understand completely if you would say that to me.

14 So what's your response?

15 MR. KAUFMAN: Your Honor, the reason why it's  
16 admissible is because it's a statement of the defendant. It's  
17 not hearsay. And the statements made by Mr. Davis are solely  
18 to put into context the statements made by the defendant.

19 THE COURT: Well, so what is -- I have no idea what  
20 Government's Exhibits 15 or 16 are at this point.

21 Mr. Butler's talking about Mr. Davis, you're talking about the  
22 defendant, and so the Court is clueless as to what these  
23 exhibits are.

24 MR. KAUFMAN: Yes, Your Honor. The statement on  
25 Exhibit 16 -- I'm sorry, Exhibit -- Exhibit 16 is the phone

1 call that Mr. Davis placed to Mr. Coleman. So there's a  
2 direct conversation with Mr. Coleman on that.

3 THE COURT: And what's your objection to that,  
4 Mr. Butler?

5 MR. BUTLER: Well, Your Honor, we would object on  
6 the ground that one, it's irrelevant. They're not talking  
7 specifically about marijuana. And number two, we would  
8 contend that there is no admission by Mr. Coleman. There's a  
9 conversation, and that's all. I would ask the Court to listen  
10 to it before you make a ruling.

11 THE COURT: Can I see the transcripts?

12 MR. KAUFMAN: Yes, Your Honor.

13 THE COURT: I'll make a ruling after the break. So  
14 we'll take a 15-minute break at this time.

15 (Recess at 3:10 until 3:25.)

16 THE COURT: All right. I've reviewed the  
17 transcripts which are 15a and 16a.

18 I find 15 is admissible as a telephone conversation  
19 between Jerry Davis and what appears to be Shaunda McAdoo. Of  
20 course it's up to the jury -- it's up the government to tie  
21 this in later, and up to the jury to assess whether the people  
22 speaking are correctly identified. But I think it's relevant  
23 to showing -- having some tendency to show the existence of a  
24 conspiracy. And I will allow 15a into evidence. Mr. Davis --  
25 you're right, Mr. Butler, Mr. Davis appears to be cooperating

1 with law enforcement at this time, and so his statements are  
2 not 801(d)(2)(e) statements, but they are admissible to show  
3 the context of the statements of Shaunda McAdoo.

4 I also think 16 is admissible as both statements  
5 against interest and 801(d)(2)(e) statements, relevant to show  
6 the existence of the conspiracy.

7 And certainly if the government is able to establish  
8 the speaker is the defendant, Mr. Davis is stopped with  
9 30 pounds of marijuana, calls the defendant. The defendant  
10 asks whether the police searched the car. Asked about K-9s.  
11 I think all of that is admissible, both as defendant  
12 admissions and as 801(d)(2)(e) statements. So I'll overrule  
13 the objections to both 15 and 16. I'll give an instruction on  
14 the use of transcripts, but I'll permit the government to  
15 offer them at this time, subject to linking it up later on in  
16 the trial.

17 MR. KAUFMAN: Thank you, Your Honor.

18 And what we anticipate doing is admitting it, but I  
19 will not publish it until I call a subsequent witness who will  
20 be identifying the voices.

21 THE COURT: That's fine.

22 MR. KAUFMAN: And, Your Honor, if I may take up one  
23 other issue. And I realize that I didn't lay it out for the  
24 Court, but I also know that Your Honor doesn't want speaking  
25 descriptions when admitting evidence. But with regard to the

1 Brinks records in Exhibits 3, 4, 8 and 13, we do have a proper  
2 902.11.

3 THE COURT: Why didn't you say that?

4 MR. KAUFMAN: Your Honor, I have to say that I'm  
5 very careful not to say too much in front of the jury.

6 THE COURT: If you'd say to me, these are offered  
7 pursuant to 902.11 affidavits, then the hearsay objection is  
8 gone.

9 MR. KAUFMAN: I understand, Your Honor.

10 And so we have that certification. My understanding  
11 is that the certification is not an exhibit on to itself.  
12 It's a --

13 THE COURT: Right. Instead of my thinking we had a  
14 hearsay exhibit, if you told me there's a 902.11 certificate,  
15 then I would have ruled in your favor at that time.

16 MR. KAUFMAN: Thank you, Your Honor.

17 And so at this time, with that known to all the  
18 parties and to the Court, may we then when starting at an  
19 appropriate time so it makes sense to the jury --

20 THE COURT: Any objection?

21 MR. BUTLER: May I see them?

22 MR. KAUFMAN: (Handing paper writing to Mr. Butler.)

23 MR. BUTLER: Well, Your Honor, we would object.

24 It's not really clear on the certificate. They have an e-mail  
25 attached to it, but I'm not sure if the certificate refers to

1 the checks or the deposit slips.

2 THE COURT: Help me out on that, Mr. Kaufman.

3 MR. KAUFMAN: Your Honor, the certificate is for all  
4 four Brinks receipts. The e-mail is simply a description of  
5 when Detective Beaver went to Brinks to obtain the  
6 certification, presented all four of the documents --

7 THE COURT: Let me see the certification.

8 MR. KAUFMAN: Yes, Your Honor. (Holding paper  
9 writing to the Court.)

10 THE COURT: The e-mail refers to the money seizures  
11 that occurred on 11/2/2002. The question for the Court is  
12 whether the government has established that the exhibits in  
13 question are what they appear to be. There certainly has been  
14 foundational testimony by the seasoned officer. There appears  
15 to be a 902.11 certificate that comports with Federal Rule of  
16 Evidence 902.11. And so the finding of the Court is that the  
17 government has established a foundation for the admission of  
18 Government's Exhibits 3, 4, 8 and 13. I'll overrule the  
19 defense objection on hearsay grounds.

20 MR. KAUFMAN: Your Honor --

21 THE COURT: Are we ready for the jury?

22 MR. KAUFMAN: We are, Your Honor. I just note that  
23 for the business records and bank records throughout this  
24 case, we do have similar certifications.

25 THE COURT: All right. And if you would, in making

1 the proffer of admission, if you would refer to the  
2 certificates and have -- has counsel for the defendant been  
3 shown the 902.11 certificates?

4 MR. KAUFMAN: We have provided them all to the  
5 defense in discovery, Your Honor.

6 THE COURT: All right.

7 MR. BUTLER: Along with about 50,000 other  
8 documents.

9 THE COURT: It's hard being a defense attorney;  
10 isn't it, Mr. Butler?

11 MR. BUTLER: (Nodding head.)

12 THE COURT: All right. Are we ready for the jury?

13 MR. KAUFMAN: Yes, Your Honor.

14 THE COURT: Call the jury.

15 (The jury was returned to the courtroom.)

16 THE COURT: Mr. Kaufman, you may proceed when ready.

17 MR. KAUFMAN: Thank you, Your Honor.

18 And Your Honor, we renew our motion to admit 15  
19 (sic) and 16 (sic) for identification as Government's 15 and  
20 16 to be published to the jury at a later time in trial.

21 THE COURT: Very well. Let them be admitted.

22 MR. KAUFMAN: Thank you, Your Honor.

23 (Government's Exhibits No. 15a & 16a were received  
24 into evidence and published.)

25 Q Agent Bryant, on November 2nd, 2010 after you're making

1 consensually recorded calls and speaking with Jerry Davis,  
2 what happened next?

3 A After that some -- around that time some marijuana -- he  
4 informed us of some marijuana that he had inside of the  
5 vehicle which was discovered and taken into custody.  
6 Throughout the evening we proceeded to record additional  
7 calls. We traveled to another location, retrieved some  
8 additional marijuana and --

9 Q What was that location? For example, was it somebody's  
10 residence?

11 A Yes, sir.

12 Q Whose residence?

13 A It was Jerry Davis' apartment.

14 Q Approximately how much marijuana was it?

15 A It was approximately 30 or 40 pounds.

16 Q All right. Next I'd like to turn your attention to  
17 November 16th of 2010. Were you involved in investigating  
18 aspects of this case on that date?

19 A Yes, sir.

20 Q Tell us what happened?

21 A That particular day we had planned on taking Mr. Coleman  
22 in custody. We had received information that he would be  
23 picking up a vehicle at a car dealership off of Independence  
24 Boulevard. We set up surveillance in the area and waited for  
25 him to show up.

1 Q Do you recall which car dealership it was?

2 A It's a Porsche dealership off Independence Boulevard.

3 Q So what did you do as part of the surveillance and  
4 arrest?

5 A I, myself, had entered the dealership, made contact with  
6 an associate or manager of the dealership. He had already  
7 kind of knew what was going on --

8 MR. BUTLER: Objection. Motion to strike.

9 THE COURT: Overruled.

10 THE WITNESS: He spoke with Special Agent MacDonald,  
11 and I hung out inside of the business provided the other  
12 agents and officers outside what was going on. And we kind of  
13 sat and waited for Mr. Coleman to show up.

14 Q (Mr. Kaufman) All right. Did you receive information  
15 while waiting that caused you to do anything?

16 A Yes, sir.

17 Q What was that?

18 A We received information that some weapons were inside of  
19 the vehicle.

20 MR. BUTLER: Objection. Move to strike.

21 THE COURT: Sustained. Ask that the jury disregard  
22 that last statement.

23 Q (Mr. Kaufman) Based on the information you received, what  
24 did you do?

25 A We searched the vehicle and located --

1 Q And can you describe what happened specifically, who did  
2 what?

3 A Myself and the associate or manager, we pulled off the  
4 back panel of the passenger seat and located some weapons.

5 Q What type of weapons?

6 A Two semi-automatic pistols.

7 Q Like to show you what's been marked as Government's  
8 Exhibit 32a for identification. Do you recognize this  
9 photograph?

10 A Yes, sir.

11 Q What is it?

12 A It's the weapons that were located on the back passenger  
13 seat inside of the -- after we removed the panels, this is  
14 what we observed.

15 Q Can you describe in a little more detail specifically  
16 where in the vehicle this is located?

17 A It's the passenger seat --

18 Q Actually maybe if I can take a step back for a second.

19 Your Honor, we would seek to have 32a admitted and  
20 published to the jury.

21 THE COURT: Any objection?

22 MR. BUTLER: Yes, Your Honor.

23 THE COURT: Overruled. Let it be admitted.

24 (Government's Exhibit No. 32a was received into  
25 evidence and published.)

1 Q All right. So -- sorry about that, Agent Bryant.

2 If you could now that the jury can see it, can you  
3 describe specifically the location from which this was  
4 taken -- or, I'm sorry, what this is showing?

5 A This is the back -- it's the passenger seat of the  
6 vehicle, SUV vehicle. This is that seat where the passenger  
7 would sit. This is the back of the seat.

8 What we did was pull the panel off the back of the seat.  
9 Once we pulled the panel off, it's like a plastic type panel  
10 and we had to snap it off. Once we got that off, this is what  
11 we observed.

12 Q Without going into what you were told, is this consistent  
13 with the information that you had received?

14 A Yes, sir.

15 Q Now if you were sitting in the driver's seat, would you  
16 be able to reach back and touch these firearms?

17 A Yes, sir.

18 MR. KAUFMAN: Your Honor, may I approach Ms. Hankins  
19 for a moment?

20 THE COURT: You may.

21 MR. KAUFMAN: Your Honor, I'm preparing two firearms  
22 to show to the witness. I would just note that they have no  
23 ammunition in them. They have been checked by and cleared by  
24 the U.S. Marshals Service. There is a band going through the  
25 device so it cannot be used in this current condition.

1                   THE COURT: All right.

2 Q (Mr. Kaufman) Now, were you the seizing agent for the two  
3 firearms?

4 A Yes, sir.

5 Q I'm sorry.

6 A Yes, sir.

7 Q And when you seized them, was there any paperwork that  
8 you completed?

9 A Yes, sir.

10 Q Are you familiar with the term 6051?

11 A Yes, sir.

12 Q What is that?

13 A It's the evidence sheet, custody sheet for Homeland  
14 Security and Customs Enforcement.

15 Q Is that a document that you create and maintain in the  
16 regular course of business?

17 A Yes, sir.

18 Q I'd like to show you what's been marked as 17a for  
19 identification. It's a two-page document. Do you recognize  
20 the first page?

21 A Yes, sir.

22 Q What is it?

23 A It's a 6051 as we just spoke of.

24 Q And specifically do you recognize this one?

25 A Yes, sir.

1 Q Sorry?

2 A You asked me, did I recognize this one?

3 Q Yes, sir.

4 A Yes, sir.

5 Q How do you recognize it?

6 A That's my signature on line 15. And this is the weapon  
7 that I would have taken into custody and documented.

8 Q And near the middle there's a line that says line item  
9 001. And then just below that line of writing it has SN.  
10 What's SN mean?

11 A Serial number.

12 Q And what's that serial number for?

13 A For that weapon, that particular weapon that was seized.

14 Q And I'm showing you page 2. Do you recognize that?

15 A Yes, sir.

16 Q What's that?

17 A That's another 6051 custody receipt.

18 Q Do you recognize this particular one?

19 A Yes, sir.

20 Q What is it?

21 A That's one that I would have completed. Again, line item  
22 15, that's my signature. And it's what I would have filled  
23 out when I took custody of the gun.

24 Q And this is the other gun from November 16, 2010?

25 A Yes, sir.

1           MR. KAUFMAN: Your Honor, at this time we seek to  
2 admit and publish 17a.

3           THE COURT: Any objection?

4           MR. BUTLER: Objection.

5           THE COURT: Let it be admitted. You may publish.

6           MR. KAUFMAN: Thank you, Your Honor.

7           (Government's Exhibit No. 17a was received into  
8 evidence and published.)

9           Q     (Mr. Kaufman) And so on the first page, this is for what  
10 type of weapon and what serial number?

11          A     That's a .45 caliber Smith and Wesson handgun.

12          Q     And is the serial number BEM 2191 as indicated on the  
13 form; is that right?

14          A     Yes, sir.

15          Q     And then on page 2, the other weapon that you seized?

16          A     It's a .9 mm.

17          Q     And is that serial number 8499?

18          A     Yes, sir.

19          Q     I'd like to show you, again, both have been recently  
20 rendered so not fireable in court, what have been marked as 17  
21 -- 17b and c.

22           MR. KAUFMAN: May I approach, Your Honor?

23           THE COURT: You may.

24          Q     If you can review 17b. Do you recognize it?

25          A     Yes, sir.

1 Q What is it?

2 A It's one of the handguns that was found in the back seat  
3 in the back panel of the seat.

4 Q And I'll be right back. So going to page 1 of 17a, how  
5 does the serial number compare -- and the actual exhibit 17b,  
6 what's the make of the firearm?

7 A 17b?

8 MR. BUTLER: I'm sorry. I can't hear.

9 THE COURT: 17b. What's the make of the firearm?

10 THE WITNESS: Smith and Wesson.

11 Q (Mr. Kaufman) And can you see the serial number on it?

12 A Yes, sir.

13 Q How does it compare with what's on 17a page 1?

14 A It matches.

15 Q And can you do the same analysis for page 2 of 17a which  
16 I'll put on screen as well as Government's 17c.

17 How do they compare Agent Bryant?

18 A They match.

19 MR. KAUFMAN: Your Honor, at this time we seek to  
20 have Government's 17b and c admitted and published to the  
21 jury.

22 THE COURT: Any objection?

23 MR. BUTLER: Objection.

24 THE COURT: No objection?

25 MR. BUTLER: Objection, Your Honor.

1           THE COURT: Overruled. Let them be admitted. You  
2 may publish.

3           MR. KAUFMAN: Thank you, Your Honor.

4           (Government's Exhibits No. 17b and 17c were received  
5 into evidence and published.)

6 Q        (Mr. Kaufman) And Agent Bryant, were both weapons loaded?

7 A        At least one was, if I recall right, sir.

8 Q        Agent Bryant, when you say one was loaded, are you saying  
9 loaded in terms of the chamber, or in the magazine, and what  
10 about the other one?

11 A       If I recall right, at least one had one in the chamber,  
12 which made it ready to fire at the squeeze of the trigger.

13           The other had bullets inside of the clip, magazine, which  
14 was not loaded, but could quickly be racked and loaded and  
15 ready to fire.

16 Q        And so the one that didn't have a round in the chamber,  
17 was the magazine inside of the weapon?

18 A       Yes, sir.

19 Q        So what would -- what's all that would be required in  
20 order to fire the weapon at that moment?

21 A       At that point in time you would just have to load it into  
22 the chamber which would be racking the barrel back and letting  
23 it go and releasing it. It would be ready to fire at that  
24 time.

25 Q       And just to clarify which seat you were discussing when

1 you seized it. Is there a front seat and a back seat in the  
2 SUV?

3 A There's a front seat and a back seat.

4 Q And was it the back of the front seat or the back of the  
5 back seat?

6 A No, it's the back of the front seat, but the passenger  
7 side.

8 Q Okay. So after you found the firearms, what happened  
9 next?

10 A That particular time I took custody of them after taking  
11 pictures.

12 Q All right.

13 A I took custody of them secured them in my vehicle.

14 Q And I believe that your testimony was that you were  
15 ultimately there to effect the arrest of Parker Coleman?

16 A Yes, sir.

17 Q Did in fact that happen that day on November 16?

18 A Yes, sir it did.

19 Q Can you describe what happened?

20 A We received information that he would be en route.  
21 Again, sat and waited. We observed a vehicle pull into the  
22 lot with two subjects inside of it. We waited for Mr. Coleman  
23 to go inside, contact management or associates. He squared  
24 away his bill and went back out to the parking lot. The  
25 driver of the vehicle he arrived in actually got into his

1 vehicle.

2 Q May I stop you for a moment?

3 A Yes, sir.

4 Q First of all, you mentioned that he was with somebody  
5 else. Did you get a good view of that person?

6 A Not at that time. After the arrests I realized who he  
7 was.

8 Q Okay. So you're saying, like, when Mr. Coleman was  
9 arrested, so was the other person?

10 A Yes, sir.

11 Q I'd like to show you what's been marked as 22t for  
12 identification. Do you recognize this person?

13 A Yes, sir.

14 Q And who is this person?

15 A That's -- I can't remember -- Darty is the guy he was  
16 with.

17 Q And so is this the person you're saying he was with that  
18 you ultimately arrested later?

19 A Yeah.

20 Q Is this a fair and accurate depiction of what he looked  
21 like?

22 A Yes, sir.

23 MR. KAUFMAN: Seek to have this admitted and  
24 published, Your Honor.

25 THE COURT: Any objection?

1 MR. BUTLER: No objection.

2 THE COURT: Let it be admitted.

3 (Government's Exhibit No. 22t was received into  
4 evidence and published.)

5 Q Now you stated that Mr. Coleman settled up the bill or  
6 something words to that effect. Can you explain what you mean  
7 by that?

8 A He settled up the bill, talked with management, received  
9 the paperwork to release his vehicle. After that he walked  
10 outside and --

11 Q When he -- well, let me ask you. Did you see where the  
12 keys for the vehicle were?

13 A Not at that time I didn't see the keys, no, sir.

14 Q Okay. So did you see if anybody received the keys for  
15 the vehicle?

16 A From my location I couldn't see who received the keys.

17 Q Okay.

18 A Coleman was the only one who walked in.

19 Q When you say Coleman, do you see him in the courtroom  
20 today?

21 A Yes, sir.

22 Q Where is he and what's he wearing?

23 A He's the gentleman sitting beside attorney Norman Butler  
24 with the white shirt on.

25 MR. KAUFMAN: Your Honor, may the record reflect a

1 correct in-court identification of the defendant.

2 THE COURT: Can you point to the person you are  
3 referring to?

4 THE WITNESS: Sitting to the right of Mr. Norman  
5 Butler.

6 THE COURT: It will.

7 MR. KAUFMAN: Thank you, Your Honor.

8 Q So what happened next?

9 A After he received the keys, the passenger -- the driver  
10 of the other vehicle door, they got inside of Mr. Coleman's  
11 vehicle, the Porsche. And as they proceeded out of the lot --

12 MR. BUTLER: I object, Your Honor.

13 THE WITNESS: -- we effected the arrest.

14 THE COURT: Basis?

15 MR. BUTLER: Well, there's a lack of personal  
16 knowledge as to ownership.

17 THE COURT: I'll sustain the objection as to whose  
18 vehicle.

19 Q (Mr. Kaufman) So if you could describe without describing  
20 whose ownership of the vehicle was. Just who went into what  
21 vehicles and what happened?

22 A Mr. Darty got into the Porsche. The white SUV is the  
23 Porsche. And Mr. Coleman got into the vehicle in which they  
24 arrived, which I believe was a Volkswagen. And they proceeded  
25 to leave out of the lot.

1 Q Were you in a position, by the way, to see an exchange of  
2 keys or anything?

3 A No, sir.

4 Q Were you still located inside the dealership?

5 A Correct. I was inside the dealership.

6 Q All right. And then what happened?

7 A After they attempted to leave the parking lot, myself and  
8 several other officers blocked them in and effected an arrest  
9 of Mr. Coleman and Mr. Darty.

10 Q Let me ask you, were you involved the next day in the  
11 arrest of Shaunda McAdoo?

12 A Yes, sir.

13 Q And was any evidence seized from her on that date?

14 A That particular day I believe some suitcases were seized  
15 from her, cellphones, and maybe some documents.

16 Q I'd like to show you what's been marked as Government's  
17 Exhibit 28a for identification purposes. Do you recognize  
18 this?

19 A Yes, sir. I recognize it.

20 Q What is it?

21 A It's another 6051, a customer receipt for our agency.

22 Q And what is it for?

23 A It's for a cellphone that was seized from Ms. McAdoo.

24 Q And is this for one of the phones you just briefly  
25 described had been seized during her arrest?

1 A Yes, sir.

2 Q And whose signature is it in block 15, if you know?

3 A That's my signature.

4 MR. KAUFMAN: Your Honor, we'd seek to have 28a  
5 admitted and published.

6 THE COURT: Any objection?

7 MR. BUTLER: No objection.

8 THE COURT: Let it be admitted. You may publish.

9 MR. KAUFMAN: Thank you, Your Honor.

10 (Government's Exhibit No. 28a was received into  
11 evidence and published.)

12 Q Now earlier I had asked you if you recognized Exhibit 15,  
13 which was a call that involved Mr. Davis and a female.

14 Do you -- when you reviewed that audio at the later date,  
15 did you recognize that voice, the female voice?

16 A Yes, sir.

17 Q Whose voice was that?

18 A Mrs. McAdoo, Shaunda McAdoo.

19 Q And you recognize that from having had conversations with  
20 her during her arrest on November 17th?

21 A Yes, sir.

22 Q Thank you. With regard to the suitcases, were you able  
23 to detect anything coming from the suitcases?

24 A Coming from -- one of the suitcases in the garage had a  
25 particular odor of marijuana coming from them.

1 Q Now you say that you seized them. Did you actually take  
2 them into custody, or did you just observe them on that date?

3 A I observed them. Someone else might have seized -- it  
4 was several officers out there. I ended up taking Ms. McAdoo  
5 downtown. I took her in custody. She was placed in my  
6 vehicle. I ended up taking her downtown.

7 Q Okay. So you seized the phone. But is it accurate that  
8 your testimony is that you didn't actually personally seize  
9 those suitcases?

10 A Correct. I don't recall seizing the suitcases, someone  
11 else might have.

12 MR. KAUFMAN: Nothing further, Your Honor.

13 THE COURT: Any cross?

14 MR. BUTLER: Yes, Your Honor.

15 CROSS EXAMINATION

16 BY MR. BUTLER:

17 Q Good afternoon, Agent Bryant.

18 A How you doing, Mr. Butler?

19 Q I'm fine. Now Agent Bryant, you indicated that you  
20 assisted in the arrest of Ms. McAdoo; is that right?

21 A Yes, sir.

22 Q Okay. And you talked about some suitcases. But you  
23 recall that you didn't seize those suitcases; is that right?

24 A Yes, sir. I can't recall myself physically seizing them.

25 Q Now was it you that seized the cellphone from her?

1 A Yes, sir.

2 Q How many cellphones did you seize from Ms. McAdoo?

3 A At least that one, Mr. Butler. It might have been  
4 another one. I can't recall. It might have been two, but at  
5 least that one I know of.

6 Q So you say but at least one, it might have been two?

7 A Yes, sir.

8 Q Do you know if -- well, as a part of this investigation,  
9 you were aware that Ms. McAdoo was stopped and detained on  
10 November 2nd of 2010; is that right?

11 A Yes, sir. I think I might have known that.

12 Q And do you recall whether or not a cellphone was seized  
13 from her on that date?

14 A I was not at the location where she was stopped and  
15 detained. I was at another location, but I remember a  
16 conversation or hearing on the radio they might have been  
17 detained. But I did not physically make contact with her that  
18 day.

19 Q Now on the 2nd of November, you were at the location  
20 where Mr. Davis was, Jerry Davis; is that right, at some  
21 point?

22 A At some point, yes, sir.

23 Q And I believe you indicated that you had talked to  
24 Mr. Davis on that occasion, correct?

25 A Yes, sir.

1 Q November the 2nd, 2010?

2 A Yes, sir.

3 Q And did you talk to him about cooperating?

4 A Yes, sir.

5 Q And did you give him your normal explanation about  
6 cooperating and how, you know, you could or couldn't promise  
7 him anything?

8 A The time I set him in my car it appeared that he had his  
9 mind made up.

10 Q I'm sorry.

11 A The time I set him in my car it appeared he had his mind  
12 made up based on what he wanted to do.

13 Q Okay. And were you present when a suitcase full of what  
14 appeared to be marijuana was located in his vehicle, in the  
15 back part of the -- I believe it was a Tahoe?

16 A I showed up after -- yes, sir. I was in the area, yes,  
17 sir.

18 Q Now -- and subsequently you all went to Mr. Davis'  
19 apartment. I believe you testified already this afternoon  
20 that there was an additional 30 to 40 pounds of marijuana at  
21 the apartment?

22 A Yes, sir.

23 Q Did you personally go to the apartment?

24 A I did go to the apartment as well.

25 Q And do you recall seeing the safe that he had at the

1 apartment?

2 A I do recall seeing a safe somewhere in the apartment.

3 Q Did anybody on the second of November of 2010, ask him  
4 about the safe, the contents therein?

5 A Yes, sir.

6 Q Was that you or someone else?

7 A I think I was in the room. I don't think it was myself.  
8 It might have been -- might have been Officer James Beaver  
9 about the safe. Again, it was several officers and/or agents  
10 in the apartment. I can't remember who all had talked to  
11 Mr. Davis.

12 Q Do you recall whether or not the safe was open?

13 A Mr. Butler, I believe it was open. I believe it was  
14 open.

15 Q Do you recall what was in it?

16 A I want to say -- not exactly, sir. It might have been  
17 some baseball cards or some kind of baseball paraphernalia. I  
18 can't recall exactly, sir.

19 Q Now on the occasion of going out to Hendrick's Porsche,  
20 that was the 16th of November of 2010, correct?

21 A Yes, sir.

22 Q And -- Agent Bryant, will you look at Government's 17a on  
23 the screen. I believe you described that as a 6051 form; is  
24 that right?

25 A Yes, sir.

1 Q That's the custody receipt of seized property in  
2 evidence, correct?

3 A Yes, sir.

4 Q Now on this -- on 17a, you want to be as accurate as  
5 possible, correct?

6 A Yes, sir.

7 Q When you record things, you want to be accurate; is that  
8 correct?

9 A Yes, sir.

10 Q Okay. Now, in -- on line nine it says, "seized from  
11 Parker Coleman." Do you see that?

12 A Yes, sir.

13 Q Okay. Who wrote that?

14 A That probably would have been myself.

15 Q Okay. And you're talking about the .45 caliber Smith and  
16 Wesson handgun; is that right?

17 A True.

18 Q But now that's not true, is it?

19 A The information we have is the guns belong to Parker  
20 Coleman, yes, sir.

21 Q Well, I'm not talking about the information. My question  
22 is, you did not seize the .45 caliber Smith and Wesson handgun  
23 from Mr. Coleman, did you?

24 A Physically take it off him? No, sir.

25 Q And you didn't take it from his -- from close proximity

1 to him, did you?

2 A From close proximity to him?

3 Q Yes, sir. I mean, he wasn't sitting in the car?

4 A Oh, no, sir.

5 Q Okay. And you don't know how long that .45 caliber Smith  
6 and Wesson handgun had been in that vehicle, do you?

7 A I do not know.

8 Q And you don't know who put it in the vehicle, do you?

9 A No, sir. I do not know.

10 Q And what about the other weapon, I believe it was a .9  
11 mm?

12 A Correct.

13 Q Do you see the 6051 form that's displayed on the screen  
14 now, Agent Bryant?

15 A Yes, sir.

16 Q And that refers to the .9 mm handgun; is that right?

17 A Yes, sir.

18 Q And again, did you write this information?

19 A Yes, sir. I'm sure that's my handwriting.

20 Q Okay. And you signed it and -- on line 15 as the seizing  
21 officer; is that correct?

22 A That's correct.

23 Q You dated November 16th of '10, correct?

24 A Yes, sir.

25 Q And again, you indicated it was seized from Parker

1 Coleman?

2 A That is correct.

3 Q Okay. But that's not true, is it?

4 A Physically taking it off his person? No, sir. I did not  
5 physically take it off his person.

6 Q Okay. In fact, you seized it from a vehicle; isn't that  
7 correct?

8 A I seized it from a vehicle known to be Mr. Parker  
9 Coleman's vehicle.

10 Q Okay. Well, now -- but now, did you have any type of  
11 registration information that indicates that that Porsche was  
12 Mr. Parker Coleman's?

13 A I have multiple hours of surveillance that put him in  
14 that vehicle.

15 Q Okay. But that was not my question. Do you have any --

16 A No, sir.

17 Q Okay.

18 A No.

19 Q And now, so you -- you surveilled that vehicle for  
20 multiple hours; isn't that right?

21 A Not myself, as an agency and officers working with, he  
22 was placed in that vehicle. Yes, sir.

23 Q Okay. But there were other people placed in that  
24 vehicle, too; isn't that right?

25 A Yes, sir.

1 Q Mr. Darty was driving it on the 16th; isn't that right?

2 A That's correct.

3 Q Of -- November 16, 2010, correct?

4 A Yes, sir.

5 Q And do you have any information regarding whether or not  
6 Stephanie Peppers drove that vehicle?

7 A I have no idea if she drove it.

8 Q Do you have any information whether or not Shaunda McAdoo  
9 drove that vehicle?

10 A No, sir.

11 Q But there may be some information to that effect? But  
12 you just don't have it; is that right?

13 A I don't have it. I just go by what we observed.

14 MR. BUTLER: If I could have a minute, please, Your  
15 Honor?

16 THE COURT: You may.

17 (Pause.)

18 Q Now Agent Bryant, wouldn't it be fair to say that you've  
19 never -- well, on November 16 of 2010, you didn't see any  
20 marijuana in that vehicle, did you?

21 A No, sir.

22 Q In fact, you've never seen any marijuana in that Porsche  
23 Cayenne; isn't that correct?

24 A That is correct.

25 Q And the Volkswagen that Mr. Coleman was driving on the

1       16th of November, a couple years ago, there was no contraband,  
2       marijuana, weapons, anything like that in that vehicle, was  
3       there?

4       A      I have not -- I did not search that vehicle. I have no  
5       idea, Mr. Butler.

6       Q      So which of the two individuals did you assist in to  
7       effectuate the arrest, Mr. Darty or Mr. Coleman?

8       A      Mr. Darty.

9       Q      Mr. Darty?

10      A      Yes, sir.

11      Q      Did you see any suitcases in the Porsche or the  
12       Volkswagen?

13      A      I can't speak on the Volkswagen. The Porsche definitely  
14       did not have any suitcases in it.

15      Q      Now you've had contact with Mr. Davis since November 2nd  
16       of 2010, have you not; Jerry Davis?

17      A      Yes, sir. After November 2nd I did have contact with  
18       Mr. Davis, yes, sir.

19      Q      Do you recall the most recent time you've had contact  
20       with Mr. Davis?

21      A      For me, it's probably been nine or 10 months ago, maybe a  
22       year ago. I haven't -- I haven't seen Mr. Davis -- I might  
23       have spoken to him briefly on the phone, maybe eight, nine  
24       months ago. Other than that, I, myself, have not had contact  
25       with Mr. Davis.

1 Q Do you remember getting a text message from him?

2 A Yes, sir.

3 Q How would you describe the text message?

4 A I can remember a text message, Mr. Butler. I can't  
5 remember the contents of it. I can remember getting text  
6 message from him, I can't think of what it was pertaining to,  
7 Mr. Butler.

8 Q Now, did you have any involvement with the arrest of Leah  
9 Davis at the airport on 2nd of November of 2010?

10 A No, sir.

11 Q How about of Nolan Robertson?

12 A I don't believe so.

13 Q Did you assist in the execution of the search warrant  
14 over at the Closeburn Road address?

15 A No, sir, I did not.

16 Q So now did you -- once you discovered these weapons  
17 behind the seat, you took possession of them then; is that  
18 right?

19 A Yes, sir.

20 Q But now at some point Agent MacDonald, who's seated by  
21 Mr. Kaufman, did you all place the guns back in the seat?

22 A I did not. That particular day I would have seized the  
23 guns, secured them in my vehicle until we effected the arrest.  
24 At some point in time later on that evening it might have even  
25 jumped to the next day, I would have given the guns to Agent

1 MacDonald. For them to do what they needed to do with them,  
2 but I did not put them back into the vehicle.

3 Q So when you seized them, you put them in your vehicle?

4 A I put them in the trunk of my vehicle, yes, sir.

5 Q Okay. And were they in the gun boxes that they're in  
6 today or not?

7 A No, sir. I put them in evidence bags.

8 Q Okay.

9 A And because of what else we had going on, they would have  
10 been secured in a lock box in my vehicle, which also holds  
11 guns. It would have been secured in those until we effected  
12 the arrest, and I was able to deal with that particular  
13 evidence, then I would have dealt with it.

14 Q But you do recall giving them to Agent MacDonald?

15 A At some point in time, yes, sir.

16 Q Now you indicated that guns are tools of the drug trade,  
17 I think is what you --

18 A Yes, sir. Tools of the drug trade, yes, sir.

19 Q Okay. But now in regards to Mr. Coleman, you have no  
20 personal knowledge of him ever possessing, actually possessing  
21 one or both of those weapons, do you, of your own personal  
22 knowledge seeing him do it?

23 A Seeing him?

24 Q Yes, sir.

25 A No, sir. Not seeing him.

1 Q All right.

2 MR. BUTLER: If I could have a moment, please, Your  
3 Honor?

4 THE COURT: You may.

5 (Pause.)

6 Q Now Agent Bryant, were you aware that a part of this  
7 investigation, this alleged conspiracy involved people from  
8 California, from Los Angeles -- the Los Angeles area?

9 A Yes, sir. I was made aware of that.

10 Q And were you also aware that one of the essential -- what  
11 I would describe as essential --

12 MR. KAUFMAN: Objection.

13 THE COURT: What is the basis of the objection?

14 MR. KAUFMAN: Counsel is characterizing evidence.

15 THE COURT: I'll sustain as to form. Ask you to  
16 rephrase your question.

17 MR. BUTLER: Yes, sir.

18 Q You were aware were you not, Agent Bryant, that at least  
19 one, if not more, TSA agents were assisting in facilitating  
20 suitcases of marijuana to be flown to Charlotte?

21 A Mr. Butler, I'm not sure about that. I wasn't the case  
22 agent on the case.

23 Q Okay.

24 A Special Agent MacDonald is. All I did was assist on this  
25 case as needed. So I'm not aware of all the ins and outs of

1 what Agent MacDonald and TFO James Beaver would know, because  
2 they ran the case.

3 Again, if they asked me to come out and assist with  
4 surveillance or an arrest, I came out. As far as the -- I  
5 knew California was involved. As far as all the persons or  
6 defendants, I can't tell you all. And with the TSA thing, I'm  
7 not sure if I ever heard that or not. I just don't know all  
8 about their particular case.

9 Q Well did you know that Davon Harris was from California?

10 A Davon who?

11 Q Harris?

12 A Harris?

13 Q Davon Harris.

14 A I don't know if I was aware of that. I'm not even sure  
15 who that is, Mr. Butler.

16 Q Well, did you -- were you a part of the, what I would  
17 describe as the takedown team that detained Shaunda McAdoo,  
18 Mr. Harris, and Mr. McKneely at the bank, Bank of America  
19 branch?

20 A No, sir. I assisted with the arrest of Ms. Shaunda  
21 McAdoo, Mr. Coleman, Mr. Darty, and one other defendant, a  
22 female defendant at a restaurant. I can't even recall her  
23 name right now. That was all the arrests I assisted in.

24 Q I'm sorry.

25 A That was the only arrest I assisted in on this

1 investigation.

2 Q But you are aware that Mr. Darty is from California,  
3 correct?

4 A Yes, sir. I did know that.

5 Q Okay. Was it Ms. Peppers, Stephanie Peppers that you  
6 assisted in her arrest?

7 A I'm not sure, Mr. Butler. I don't think it was. I can't  
8 remember the name of the female. Again, me and another agent  
9 in a marked unit, CMPD, Charlotte-Mecklenburg unit was asked  
10 to go to the restaurant to look for this female. We found  
11 her, took her into custody. I notified Special Agent  
12 MacDonald he had us bring her to the office. I didn't  
13 interview her. That might have been her, Mr. Butler, I'm not  
14 even sure.

15 Q What restaurant was it, do you recall?

16 A Goodness, I can't even think of the name of the  
17 restaurant, Mr. Butler. It's over off the west side of town.  
18 Small little restaurant I can't even think of the name of the  
19 restaurant, sir. But it was just a simple walk in, had her  
20 identified. We brought her back to the office.

21 Q So once you relinquish possession of the weapons to Agent  
22 MacDonald, you don't know whether they were dusted for prints  
23 or swabbed for DNA or anything like that, do you?

24 A No, sir. At that particular time he do with them as  
25 needed for his case.

1 MR. BUTLER: If I could just have a moment?

2 THE COURT: You may.

3 (Pause.)

4 MR. BUTLER: Thank you, very much. I have nothing  
5 further.

6 THE COURT: Redirect?

7 MR. KAUFMAN: Yes, sir.

8 REDIRECT EXAMINATION

9 BY MR. KAUFMAN:

10 Q Agent Bryant, are you familiar with the Samantha Jo  
11 Schmidlin?

12 A I believe I heard that name, yes, sir.

13 Q How do you know that name?

14 A That might have been the female I assisted with the  
15 arrest of in the restaurant.

16 Q Now Agent Bryant, the defense lawyers asked you several  
17 times about Mr. Coleman possessing the firearms from  
18 November 16th. Are you familiar with the term, "constructive  
19 possession"?

20 A Yes, sir.

21 Q And can you describe how that might relate to the  
22 circumstance on November 16?

23 MR. BUTLER: Objection, Your Honor.

24 THE COURT: I'll do that later on. I'll sustain the  
25 objection --

1 MR. KAUFMAN: Yes, Your Honor.

2 THE COURT: -- to any legal interpretation by the  
3 witness.

4 Q Agent Bryant, you were asked several questions about  
5 document that's been admitted as 17a, and how you have Parker  
6 Coleman and the address listed up there.

7 Let me ask you, on November 16th, who was driving the  
8 Volkswagen up to the Porsche dealership?

9 A I did not see who was driving. I known it to be --

10 MR. BUTLER: Objection.

11 THE COURT: Sustained.

12 MR. KAUFMAN: Present sense impression, Your Honor.

13 THE COURT: Overruled -- I mean, I'll sustain the  
14 objection.

15 Q And who was it who went into the dealership to settle up  
16 the business?

17 A Mr. Parker Coleman.

18 Q So is the fact that he was settling up for that vehicle  
19 consistent with your methodology of including him on this  
20 6051?

21 MR. BUTLER: Objection.

22 THE COURT: Overruled.

23 THE WITNESS: Yes, sir.

24 Q Now, have you had any cases that involved guns where the  
25 firearms were not physically in the hands or in the waistband

1 of a defendant at the time that it was seized?

2 A That is correct.

3 Q And how do you fill out the 6051s when an individual is  
4 arrested and there's a firearm in the vehicle but not  
5 physically touching that person?

6 A If -- you would link it to that person, the same with a  
7 vehicle. If this had been a vehicle seized, a vehicle that we  
8 know to belong to someone --

9 Q I'm asking about a firearm.

10 A Yes, sir, I understand. But again, it would be linked to  
11 our knowledge as to who it belonged to.

12 Q So when there's a firearm that's not physically in  
13 physical contact with an individual, what's your standard  
14 operating procedure for filling out 6051?

15 MR. BUTLER: Objection.

16 THE COURT: Overruled.

17 THE WITNESS: Who we known it to belong to. Because  
18 there's a petition part involved. If someone wants to  
19 petition for their property back, it's got to be who you link  
20 it to.

21 So if it's linked to Mr. Coleman and if he wants to  
22 petition through our department to get his guns back, it's got  
23 to have the correct name on it who we believe it to belong to.

24 MR. KAUFMAN: Nothing further, Your Honor.

25 MR. BUTLER: If I could, just a quick question.

1           THE COURT: Very briefly.

2           MR. BUTLER: Thank you.

3                           RECROSS EXAMINATION

4 BY MR. BUTLER:

5 Q       Well, Agent Bryant, now there was never a petition by Mr.  
6 Coleman concerning those guns, was there?

7 A       I'm sorry, Mr. Butler. Say it again, sir?

8 Q       There was never a petition by Mr. Coleman for those guns;  
9 isn't that right?

10 A      I have no idea, Mr. Butler. I don't know.

11 Q      And so basically what -- am I correct your  
12 understanding -- what you're saying is, you all would just  
13 link it to somebody, isn't that right? You said you link it  
14 to the person; is that right?

15 A      With the knowledge that we know of, yes, sir. If it's  
16 identified to that person, you would fill out that particular  
17 form, or that number to that person. That's whether it be a  
18 bicycle or a gun or whatever. You link it to the person.

19 Q      But isn't it true that it would be more accurate seized  
20 from the Porsche, but not the person; isn't that correct?

21 A      No, sir. A report would document physically where it  
22 came from, but the name Porsche is not a human being, you  
23 can't --

24 Q      I understand that. But it doesn't -- but you seized it  
25 from the Porsche, correct?

1 A Physically removed it from the Porsche, yes, sir.

2 MR. BUTLER: Okay. Thank you. I have no further  
3 questions.

4 THE COURT: You may step down, be excused.

5 Call your next witness.

6 MR. KAUFMAN: We next call Detective Dwayne Spears.

7 DWAYNE SPEARS, GOVERNMENT WITNESS, SWORN

8 DIRECT EXAMINATION

9 BY MR. KAUFMAN:

10 Q Good afternoon.

11 A Good afternoon.

12 Q If you could introduce yourself to the jury, please.

13 A My name is Detective Dwayne Spears.

14 Q How do you spell your last name?

15 A S-P-E-A-R-S.

16 Q And you're a detective with CMPD?

17 A Correct, sir.

18 Q How long have you been with CMPD?

19 A Thirteen years, sir.

20 Q And how long have you been in law enforcement in  
21 totality?

22 A Thirteen years, sir.

23 Q Are you also cross sworn as a task force officer with the  
24 Organized Crime Drug Enforcement Task Force?

25 A Yes, sir.

1 Q How long have you been such a task force officer?

2 A Four years, sir.

3 Q Of your 13 years with CMPD, how many of those years have  
4 involved narcotics investigations?

5 A Seven years, sir.

6 Q Now in those -- in your entire career, approximately how  
7 many search warrants have you executed?

8 A Fifty or more, sir.

9 Q Do you have experience -- well, you say you got narcotics  
10 experience. Do you have experience, for example, working as  
11 an undercover officer?

12 A Yes, sir.

13 Q Can you just very briefly describe what that means?

14 A Basically purchasing narcotics from different individuals  
15 that's selling drugs.

16 Q And in terms of marijuana investigations and arrests, how  
17 many of those have you taken part in?

18 A I've been in part of well over 500 or more drug arrests.

19 Q Like to turn your attention to an investigation that  
20 involved, among other things, the area of Closeburn Road near  
21 South Park, Charlotte. Did you conduct surveillance as part  
22 of the investigation?

23 A Yes, sir.

24 Q I'd like to turn your attention to October 29th of 2011.  
25 Did you conduct surveillance in that area on that date?

1 A Yes, sir.

2 Q Can you tell us what happened?

3 A Yes, sir. Special Agent MacDonald asked me to assist him  
4 with a surveillance. I was sitting in the parking lot of Park  
5 Road park near the tennis courts, which is approximately about  
6 a block away from Closeburn Road. When I was sitting in the  
7 parking lot, I observed Mr. Coleman meet -- he was driving a  
8 silver Infiniti. And I observed him meet with two black males  
9 that were driving a white Chevy SUV, sir.

10 Q I would like to show you what's already been marked -- or  
11 sorry -- admitted as Government's 7d. Just drawing your  
12 attention to the vehicle. Do you recognize this vehicle?

13 A Yes, sir. It's gonna be the Infiniti that I observed in  
14 Park Road park.

15 Q Now, is there a license plate visible on this picture?

16 A No, sir, it's not.

17 Q But in terms of the overall view of the vehicle, it looks  
18 like it's consistent with what you observed on October 29th?

19 A Yes, sir.

20 Q Detective Spears, I would like to now turn your attention  
21 to November 2nd of 2010. Did you -- were you involved in the  
22 investigation at 5425 Closeburn Road?

23 A Yes, sir.

24 Q And did it involve unit 115?

25 A Yes, sir.

1 Q What was your involvement?

2 A I applied for a search warrant for that residence, sir.

3 Q With whom? Like, to whom did you apply?

4 A For the residence, 5425 Closeburn, unit 115, and for  
5 Parker Coleman, sir.

6 Q Who issued that search warrant?

7 A The Mecklenburg County magistrate court officer.

8 Q Tell us about your involvement that day, leading up to  
9 and including and through the execution of the search warrant?

10 A Once again, I applied for a search warrant after a  
11 vehicle was stopped and marijuana was located. I went back to  
12 the office and began typing up a search warrant.

13 Once I got the search warrant done, I went down to the  
14 Mecklenburg County jail, that is where the magistrate office  
15 is located, and I applied for a search warrant.

16 After receiving the search warrant, I let agents and  
17 detectives that were still conducting surveillance on the  
18 residence let them know that I had a search warrant and that  
19 they could go ahead and execute the search warrant.

20 Q Did you go on scene yourself?

21 A Yes, sir I did.

22 Q What happened?

23 A Once I got there, sir, went inside. I read the search  
24 warrant to Mr. Coleman, and at that time Detective Beaver  
25 began interviewing Mr. Coleman while I took care of collecting

1 evidence, sir.

2 Q And in addition to law enforcement and Mr. Coleman, was  
3 there anybody else who was in the residence?

4 A No, sir.

5 Q Is there anything that caught your attention when you got  
6 to the residence in terms of your senses?

7 A Yes, sir. Once inside the residence I could smell a  
8 strong odor of marijuana coming from the residence, sir.

9 Q And what type of marijuana?

10 A Fresh marijuana, sir.

11 Q Did you review the kind of personal items that were  
12 located in the apartment?

13 A Yes, sir.

14 Q How would you characterize those belongings?

15 A There was one bed and male clothes that was inside that  
16 particular room. And then a closet there was -- you could  
17 tell that it was only a male that was living there in the  
18 residence.

19 MR. BUTLER: Objection.

20 THE COURT: Overruled.

21 Q Were there any female clothes that you saw anywhere or  
22 any other female items that you observed?

23 A No, sir.

24 Q Did you play a role in the actual search itself?

25 A Yes, sir I did.

1 Q What did you do?

2 A As people was finding evidence, sir, I took -- I  
3 collected and gathered the evidence and took pictures of it as  
4 well, sir.

5 Q Detective Spears, when evidence was seized, were you  
6 involved in the processing of that evidence?

7 A Yes, sir.

8 Q What did you do?

9 A Once all the evidence was collected, Detective Beaver and  
10 myself went down to the Law Enforcement Center, which is  
11 located at the law enforcement at -- property control, which  
12 is located at the Law Enforcement Center. And at that time we  
13 processed all the evidence, made copies and was placed in  
14 evidence envelopes and turned in as evidence, sir.

15 Q All right. I would like to hand you an evidence bag,  
16 it's marked 33168 at the top. Do you recognize this?

17 THE COURT: What exhibit number?

18 MR. KAUFMAN: Well, there's the exhibit inside that  
19 will be Exhibit 14g for identification.

20 Q Do you recognize this?

21 A Yes, sir.

22 Q And what is it?

23 A Picture, sir.

24 MR. BUTLER: I'm sorry. I'm having problems  
25 hearing.

1           THE COURT: Detective Spears --

2           THE WITNESS: A picture, sir.

3           THE COURT: A picture?

4           THE WITNESS: Yes.

5   Q    (Mr. Kaufman) And where -- do you remember seeing this  
6   picture before?

7   A    It was -- I think inside the residence, sir.

8   Q    Okay. And is it a fair and accurate depict -- is it  
9   actually the photograph that you saw in the residence during  
10   the search warrant execution?

11   A    Yes, sir.

12           MR. KAUFMAN: We would seek to have Government's 14g  
13 admitted and published.

14           THE COURT: Any objection?

15           MR. BUTLER: Yes, Your Honor. We would object.

16           THE COURT: Basis.

17           MR. BUTLER: For the reason that we had indicated in  
18 pretrial motion.

19           THE COURT: All right. Overruled.

20           (Government's Exhibit No. 14g was received into  
21 evidence and published.)

22           MR. KAUFMAN: Now showing the jury 14g.

23   Q    Do you recognize anybody in this photograph?

24   A    Mr. Coleman, sir.

25   Q    And where is he located in relation to the four people?

1 A Right on the left, wearing the red shirt.

2 Q Okay. Thank you.

3 Next I would like to show you -- while I'm pulling out  
4 the contents of this brown bag, do you recognize the brown bag  
5 itself?

6 A Yes, sir. It's going to be the evidence bag that I  
7 placed evidence from the search warrant that day, sir.

8 Q How do you recognize it?

9 A The complaint numbers, the address, the date, my  
10 initials, and the date and time that I turned it in, sir.

11 Q And is this a standard CMPD method of packaging evidence  
12 seized during search warrant?

13 A Correct, sir.

14 Q I'm showing you what's been marked as 14h, do you  
15 recognize this envelope?

16 A Yes, sir.

17 Q What is it?

18 A That's gonna be documents that was found in a dresser in  
19 the kitchen.

20 Q And do you recognize your writing or signature on it?

21 A Yes, sir.

22 MR. KAUFMAN: We move to -- well, I'll move in a  
23 moment.

24 Q Okay. Next I have what's been marked as 14i, also 14j, k  
25 and l, all coming from the same overall brown bag. Do you

1 recognize these as well?

2 A Yes, sir. All documents that was taken from the  
3 residence, sir. All with my initials on it when I turned them  
4 in.

5 MR. KAUFMAN: Your Honor, at this time we seek to  
6 have government's h through -- well h, i, j, k and l admitted  
7 and published at a later date -- at a later point in trial.

8 MR. BUTLER: Objection.

9 THE COURT: Overruled. They will be admitted.

10 (Government's Exhibits No. 14h, 14i, 14j, 14k and  
11 14l were received into evidence and published.)

12 Q From the next brown bag, and again, do you recognize the  
13 brown bag?

14 A Yes, sir.

15 Q For the same reason as the prior one?

16 A Yes, sir.

17 Q And from inside of that is Exhibits 14m, n, o and p. Do  
18 you recognize those?

19 A Once again, it's going to be documents that was located  
20 during the search warrant. And all of them have my name and  
21 initials on them, sir.

22 MR. KAUFMAN: Thank you.

23 Your Honor, we seek to admit and publish at a later  
24 time 14m, 14n, 14o and 14p.

25 THE COURT: Any objection?

1           MR. BUTLER: Objection.

2           THE COURT: Overruled. Let it be admitted.

3           (Government's Exhibit No. 14m, 14n, 14o, 14p were  
4 received into evidence.)

5           Q      In addition to the documents, Detective Spears, what else  
6 did you find in the residence?

7           A      We also located a money counter with paraphernalia, money  
8 wrappers and stuff. We also located a handgun, a Glock 17  
9 with three magazines and 29 bullets. And also a small amount  
10 of marijuana, and a large amount of U.S. currency. I think it  
11 was approximately about \$92,000.

12          Q      Where was the money located?

13          A      The money was located in the master bedroom in a safe in  
14 the kitchen area and in a closet, as well, near the front  
15 door.

16          Q      And did you take photographs during the search warrant  
17 execution?

18          A      Yes, sir, I did.

19          Q      Now I'd like to -- when you processed the -- you  
20 mentioned that there was a handgun found. How did you process  
21 that?

22          A      We handled it with gloves, and it was placed in the box.  
23 And it was turned in as evidence. And I think at a later date  
24 Detective Beaver put it in to be tested, sir.

25          Q      Like to show you what's been marked as Government's

1      Exhibit 10a for identification purposes. Do you recognize  
2 what this is?

3 A      Yes, sir. This is gonna be the property sheet, sir.

4 Q      And the property sheet for what?

5 A      For the handgun.

6 Q      The one from November 2nd?

7 A      Yes, sir.

8            MR. KAUFMAN: Your Honor, we would seek to have 10a  
9 admitted and published to the jury.

10          THE COURT: Any objection?

11          MR. BUTLER: If I could have a moment, please, Your  
12 Honor.

13            (Pause.)

14          MR. BUTLER: Objection, Your Honor.

15          THE COURT: Overruled. Let it be admitted.

16          MR. KAUFMAN: Thank you, Your Honor.

17            (Government's Exhibit No. 10a was received into  
18 evidence.)

19 Q      If you look at the middle of the document, Detective  
20 Spears, do you recognize the named signature?

21 A      Yes.

22 Q      Whose that?

23 A      Going to be my signature, sir.

24 Q      And you mentioned it was what type of firearm?

25 A      A Glock 17.

1 Q And on the form did you indicate the type of weapon and  
2 its serial number?

3 A Yes, sir.

4 MR. KAUFMAN: Your Honor, again, 14a for  
5 identification purposes. The U.S. Marshals have cleared the  
6 weapon and ensured and currently put it in a status that it  
7 cannot be used.

8 THE COURT: All right.

9 Q All right. Detective Spears, I'm showing you what's been  
10 marked as Government's Exhibit 14a. Do you recognize it?

11 A Yes, sir.

12 Q How do you recognize it?

13 A It's gonna be the Glock 17 that I seized that day with  
14 the serial number N David Paul 747.

15 MR. KAUFMAN: Thank you.

16 Your Honor, we seek to have Government's 14a  
17 admitted and published.

18 MR. BUTLER: Objection.

19 THE COURT: Overruled. Let it be admitted. You may  
20 publish.

21 (Government's Exhibit No. 14a was received into  
22 evidence and published.)

23 Q And also I'd like to show you separately what have been  
24 marked as Government's Exhibit 14b, 14c, 14d and 14e. Do you  
25 recognize these?

1 A Yes, sir. This is gonna be the magazines and the bullets  
2 that were recovered during that search warrant.

3 Q Is this consistent with the 29 bullets there was -- there  
4 should be 29 bullets in 14e, base on what's been admitted as  
5 Government's Exhibit 10a?

6 A Correct, sir.

7 MR. KAUFMAN: Your Honor, we seek to have 14b, 14c,  
8 d and e admitted.

9 MR. BUTLER: Objection.

10 THE COURT: Overruled. Let it be admitted -- let  
11 them be admitted.

12 (Government's Exhibits No. 14b, 14c, 14d & 14e were  
13 received into evidence.)

14 Q Now Detective Spears, in 14e there are 29 bullets. Where  
15 were the bullets located when you actually seized them on  
16 November 2nd?

17 A The weapon was loaded, sir, and I think it was all  
18 located underneath the bedroom -- I mean, the bed, in the  
19 master bedroom, sir.

20 Q I would like to show you some photographs, 19a -- I'm  
21 sorry -- 9a, 9c, 9d, 9e, 9f, 9g, 9h, 9i, 9j, 9k, 9l, 9m, 9n,  
22 9o, 9p, 9q, 9r, 9s, 9t, 9u.

23 Do you recognize the photographs I've just shown you?

24 A Yes, sir.

25 Q How do you recognize them?

1 A Of pictures that were taken during the search warrant,  
2 sir.

3 Q Are they fair and accurate photographs of what was  
4 observed during the search warrant?

5 A Yes, sir.

6 MR. KAUFMAN: Your Honor, we would seek to have 9a,  
7 then 9c through 9u admitted and published.

8 MR. BUTLER: Objection.

9 THE COURT: Overruled. Let them be admitted. You  
10 may publish.

11 (Government's Exhibits No. 9a, 9c through 9u were  
12 received into evidence.)

13 Q Nine-a, what is this showing?

14 A Mr. Coleman, sir.

15 Q This was at the time of the arrest?

16 A Yes, sir.

17 Q Nine-c.

18 A U.S. mail.

19 Q And to what address is it sent and whom?

20 A Mr. Parker Coleman 5425 Closeburn Road, Apartment 115.

21 Q Was there other mail addressed to Mr. Coleman at that  
22 address?

23 A Yes, sir.

24 Q Nine-d, what's this?

25 A That's gonna be U.S. currency located in the kitchen

1 area, sir.

2 Q Nine-e.

3 A A close-up shot.

4 Q Nine-f.

5 A That's gonna be U.S. currency that was in the Crown Royal  
6 bag.

7 Q That was also depicted in the earlier shot of 9-d.

8 A Yes, sir.

9 Q Nine-g.

10 A It's gonna be other U.S. mail.

11 Q It's blurry, but can you tell what the name and address  
12 is?

13 A Parker Coleman 5425 Closeburn Road, 115.

14 Q Nine-h.

15 A Gonna be U.S. currency that was seized in the closet in a  
16 computer box.

17 Q Nine-i.

18 A Close-up shot.

19 Q Nine-j.

20 A In the kitchen area, Ziploc bags.

21 Q Now based on your training and experience, is this  
22 relevant to your investigation.

23 A Yes, sir.

24 Q How so?

25 A Marijuana is sometimes repackaged in Ziploc baggies.

1 Q Why is that?

2 A For sale.

3 Q Why is it packaged in ziplog bags?

4 A To hide -- well, as much as you can, the odor, mask the  
5 odor, and just to put it in something smaller.

6 Q Nine-k.

7 A That's gonna be an ID.

8 Q Was this ID found during the execution of the search  
9 warrant?

10 A Yes, sir, in the master bedroom.

11 Q Nine-l.

12 A It's gonna be pictures in the master bedroom closet.

13 Q Nine-m.

14 A It's gonna be a money counter that was located in the  
15 master bedroom closet as well.

16 Q What I'm now increasing in size, that's the money  
17 counter?

18 A Yes, sir.

19 Q What's this?

20 A That's gonna be pictures of the handgun that was located  
21 underneath the bed in the master bedroom.

22 Q Is this showing how it was when it was found?

23 A Yes, sir.

24 Q Nine-o. And in fact, is this what has already been  
25 admitted as the firearm that you found during the execution of

1 the search warrant?

2 A Yes, sir.

3 Q Has it been opened for purposes of taking the photograph  
4 and taken out from under the bed?

5 A Correct.

6 Q Nine-p.

7 A U.S. currency, sir, that was located in the bag.

8 Q Do you remember off the top of your head where the bag  
9 was located?

10 A No, sir. Not right off the top of my head.

11 Q Nine-q.

12 A That's U.S. currency that was found inside a coat pocket  
13 inside the master bedroom pocket.

14 Q Is it wrapped somehow?

15 A It's folded up and a rubber band is around it.

16 Q Based on your training and experience, is the way that  
17 it's been packaged here, is that relevant?

18 A It's just folded up and was stored in -- like it was  
19 might have been forgot about.

20 MR. BUTLER: Objection. Move to strike.

21 THE COURT: Sustained as to what it might have been.

22 Ask the jury to disregard that.

23 Q (Mr. Kaufman) Based on your training and experience, do  
24 drug traffickers do anything in particular with their currency  
25 so it makes it easier to count?

1 MR. BUTLER: Objection.

2 THE COURT: Overruled.

3 THE WITNESS: Fold it up and have it kind of already  
4 know what it is, the amount.

5 Q When you say the amount, you mean the total amount in a  
6 particular banded cluster?

7 A Could be, yes, sir.

8 Q Nine-r. Nine-r. What's this showing?

9 A This is gonna be rubber bands and money wrappers, sir.

10 Q Can you see what it says in terms of denominations?

11 A Like \$2,000 stacks -- well, slips.

12 Q And the yellow ones?

13 A I can't make it out, sir.

14 Q Nine-s.

15 A Gonna be male clothes and shoes at the top.

16 Q Is that still in the master bedroom where the safe was  
17 showing in the earlier picture?

18 A Yes, sir. This is gonna be a picture of male shoes in  
19 the same closet on the top shelf.

20 Q That's 9-t. Moving on to 9-u.

21 A That's gonna be a picture of U.S. currency that was  
22 seized from the safe.

23 Q Did you seize any phones during the search?

24 A Yes, sir, we did.

25 Q Do you recall how many?

1 A Three cellphones that was located in the master bedroom  
2 as well.

3 Q Like to show you what's been marked as Government's  
4 Exhibit 41b. Do you recognize what this is?

5 A Yes, sir. It's gonna be the property sheet from November  
6 2nd, 2010.

7 Q And what is it showing?

8 A Showing the cellphones and the cellphone charges that was  
9 located during the search.

10 Q And is that your signature on the form in the middle?

11 A Yes, sir, it is.

12 MR. KAUFMAN: Your Honor, we'd seek to admit and  
13 publish 41b.

14 MR. BUTLER: Objection.

15 THE COURT: Overruled. Let it be admitted.

16 (Government's Exhibit No. 41b was received into  
17 evidence and published.)

18 MR. KAUFMAN: Nothing further, Your Honor.

19 THE COURT: Any cross?

20 MR. BUTLER: Yes, Your Honor. Thank you.

21 CROSS EXAMINATION

22 BY MR. BUTLER:

23 Q Good afternoon, Detective Spears.

24 A Good afternoon.

25 Q Now Detective Spears, you applied for this search

1 warrant; is that right?

2 A Correct, sir, I did.

3 Q In making your application, you had to present certain  
4 information to the magistrate; is that correct?

5 A Correct, sir.

6 Q Now you were looking for marijuana; isn't that correct?

7 A Correct, sir.

8 Q But you didn't find much marijuana, did you?

9 A Correct, sir.

10 Q How much did you find if you recall?

11 A I think it was .6 grams that was inside the residence,  
12 sir.

13 Q Point 6 grams?

14 A Correct, sir.

15 Q Where was it?

16 A It was near to the front closet, near the -- kind of  
17 where you go in there was a closet right there at the front.

18 Q I'm sorry?

19 A Kind of in a closet, sir, near the front -- front of the  
20 residence near the front door.

21 Q Well, of course, now, you indicated you had -- there was  
22 a strong smell of fresh marijuana; is that right?

23 A Correct, sir.

24 Q Are you saying that was it, the .6 grams?

25 A No, sir.

1 Q Okay. Well you didn't find any other than the .6 grams,  
2 correct?

3 A Correct.

4 Q Okay. Now, do you recall what time you executed the  
5 search warrant?

6 A Not right off hand, sir. It was mid-afternoon, sir.

7 Q Were you aware that the unit 115 at Closeburn Road was  
8 leased to Ms. Stephanie Peppers?

9 A No, sir. I don't recall.

10 Q When you went to the unit, Mr. Coleman was asleep, wasn't  
11 he?

12 A Agents and detectives had already entered the residence,  
13 sir, before I got there. So when I got there he was all -- I  
14 mean, he was awake. I'm not sure if he was asleep or not,  
15 sir.

16 Q Okay. Okay. So you called and said I have a search  
17 warrant. You all go ahead and do what you do, is that pretty  
18 accurate?

19 A Once I got the search warrant, I called them and  
20 advised -- cause rush hour time, it was gonna take -- to get  
21 out there. As I said, I had the search warrant signed, and  
22 the supervisor on scene advised me -- I told them they could  
23 go ahead and execute the search warrant at that time.

24 Q Now when you left -- strike that.

25 Before you left to apply for the search warrant, you were

1       conducting surveillance of that building; is that right?

2       A      Not the building. I was in the area. I think Agent  
3       MacDonald had the eye -- what we call the eye that was  
4       watching the actual building. And I was probably about,  
5       anywhere from about a half mile to a mile away.

6       Q      Well somebody was watching?

7       A      Correct, sir.

8       Q      You believe it was Agent MacDonald?

9       A      Yes, sir.

10      Q      And would it be fair to say based on your training and  
11       experience, the building was under surveillance until you let  
12       them know that you had search warrant, correct?

13      A      Correct, sir.

14      Q      So nobody could come and go without law enforcement  
15       observing them; is that correct?

16      A      Well, if I could elaborate a little bit. You could only  
17       see the front of the building. Once they go inside the  
18       building, you can't tell which unit they're going to.

19      Q      Exactly. So you're saying that once you get inside, you  
20       don't know where a person goes?

21      A      Correct, sir.

22      Q      Is that right?

23      A      Correct.

24      Q      So you can't see the individual units from the outside;  
25       is that right?

1 A Correct, sir.

2 Q And can you describe the hallway inside?

3 A Once you go into -- I think it was on the first floor.

4 Once you go inside the floor, you go and make a hard left, and  
5 then his door was right there in front of you, sir, all the  
6 way down a hallway.

7 Q How many units were on that floor, do you recall?

8 A No, sir, I don't.

9 Q And how many units would you say, or how many floors in  
10 the building?

11 A I don't know, sir.

12 Q But it was a high-rise building?

13 A Correct.

14 Q Was it 10 floors or you just don't know?

15 A I just don't know right off hand. I know it was probably  
16 more than two or three.

17 Q Now did you know who -- who lived there?

18 A We had information that Mr. Coleman was living there.

19 Q Okay. And didn't you have information that Ms. Peppers  
20 lived there, too?

21 A No, I didn't, sir, no.

22 Q Okay. But that doesn't mean that somebody didn't,  
23 correct?

24 MR. KAUFMAN: Objection. Asked and answered.

25 THE COURT: Overruled.

1 Q You just didn't, correct?

2 A Correct.

3 Q Okay. How many -- how many -- to your knowledge how many  
4 agents or law enforcement officials were involved in this  
5 investigation?

6 A Throughout the year, sir, or just on this particular day?

7 Q On this particular day?

8 A On this particular day, at least 10, probably anywhere  
9 from 10 to 20, sir.

10 Q Okay. And how long had you been involved in this  
11 investigation?

12 A On this particular day.

13 Q No, entirety. The entire time you've been involved in  
14 it?

15 A Helping Agent MacDonald and Detective Beaver out a lot  
16 with surveillance, sir.

17 Q Okay. Can you give me a time limit, weeks, days, hours?

18 A Several, several months.

19 Q Several months, okay. Now wouldn't it be fair to say  
20 during this surveillance -- now, you never seized any  
21 marijuana from Mr. Coleman, did you?

22 A Correct, sir.

23 Q Never seized any guns from Mr. Coleman, did you?

24 A At the house, sir.

25 Q But now the gun was at the house; isn't that right?

1 A Correct.

2 Q And now, it was under a bed; is that right?

3 A Correct, sir.

4 Q Well do you know who put it there?

5 A No, sir.

6 Q Do you know how long it had been there?

7 A No, sir.

8 Q And there's no evidence that Mr. Coleman ever tried to  
9 get that gun --

10 A Correct.

11 Q -- on the day in question?

12 A Correct.

13 Q And you showed the ladies and gentlemen of the jury  
14 several photographs, not a photograph with Mr. Coleman  
15 possessing a firearm, is there?

16 A Correct, sir.

17 Q Now were you familiar with Jerry Davis?

18 A Just on that day of surveillance, sir.

19 Q Did you have an occasion to go to his apartment?

20 A No, sir I didn't.

21 Q Now the money that was in the safe, you took a picture of  
22 the money; is that right, in the safe?

23 A Correct, sir.

24 Q Okay. Did you count the money?

25 A It was counted, sir.

1 Q No. My question is, did you count it?

2 A Oh, no, sir.

3 Q Who collected the money?

4 A It was seized by agents, sir.

5 Q Okay. What agent?

6 A Not sure which agent collected it, sir.

7 Q That was an awful lot of money, wasn't it?

8 A Correct, sir.

9 Q Well, do you know who put the money in the safe?

10 A In that particular safe?

11 Q Yes, sir.

12 A No, sir.

13 Q (Indicating.)

14 A No, sir.

15 Q Know how long it had been in there?

16 A No, sir.

17 Q Was the safe opened or closed when you got there?

18 A Closed, sir.

19 Q And can you describe to the ladies and gentlemen of the  
20 jury whether it was a safe with a key or a combination lock?

21 A Combination.

22 Q And isn't it true that Mr. Coleman didn't know the  
23 combination?

24 A Correct, sir.

25 Q How did you all get in there?

1 A Paperwork that was on the -- for the safe, sir. Still  
2 had a combination on there.

3 Q I'm sorry.

4 A Paperwork that was located during the search warrant had  
5 the combination on there.

6 Q Where was that paperwork located?

7 A In the residence, sir. I'm not sure where.

8 Q You don't know where?

9 A (Indicating.)

10 Q So you didn't -- I mean, you didn't make a note as to  
11 where the combination to the safe was; isn't that right?

12 A No, sir. We --

13 Q Are you sure that that's where you got the combination  
14 from, or did you break it open?

15 A No. We did not break it open, sir.

16 Q Well, did you seize the combination, the pieces of  
17 paperwork that had the combination on it?

18 A We might have, sir. I'm not sure.

19 Q Okay. But I thought you were the person that was  
20 collecting the evidence?

21 A Other evidence was -- once I was in charge of gathering  
22 the evidence, sir, and I'm going into different rooms  
23 collecting. So a lot of times we just seized amount of  
24 paperwork. Like I said, I'm not sure if it was within there  
25 or not, sir.

1 Q So was there more than you collecting and recording the  
2 evidence?

3 A Sometimes, sir. Yes.

4 Q Well, what about --

5 A I didn't see all the paperwork that was -- cause people  
6 were coming towards me saying that evidence is found. I go in  
7 and I might -- not review it, but I might just -- okay, get  
8 it, and put it in the evidence envelope and then save it right  
9 there.

10 Q But when you do a search warrant, the execution of the  
11 search warrant, you want to be pretty meticulous in recording  
12 what's seized; isn't that right?

13 A Correct, sir.

14 Q Okay. You want to be -- and actually you want to be  
15 correct?

16 A Correct.

17 Q Correct? That's why you photograph?

18 A Correct.

19 Q So that you can see where it came from? How it was  
20 before you removed it; isn't that correct?

21 A In all possible, yes, sir.

22 Q I'm sorry?

23 A I said, when possible, yes, sir.

24 Q Well, who opened the safe?

25 A I was in another part of the house helping search, sir.

1 And then when I came back, they advised that they were able to  
2 get the safe open.

3 Q Okay. So you don't know who opened it?

4 A Correct, sir.

5 Q Now did you see any suitcases in the apartment unit 115?

6 A Yes, sir.

7 Q And how many suitcases did you see?

8 A I think it was two, sir.

9 Q No marijuana in those suitcases, were they?

10 A No, sir.

11 Q Just normal luggage, correct?

12 A Correct, sir.

13 Q This Glock 17 firearm, did you collect that?

14 A Yes, sir.

15 Q Do you recall whether or not if it was loaded?

16 A Yes, sir.

17 Q Was it?

18 A Yes, sir it was.

19 MR. BUTLER: If I could have a moment please, Your  
20 Honor.

21 THE COURT: You may.

22 (Pause.)

23 Q Now when you walked in, Detective Spears was in the  
24 bedroom -- I mean, just by walking in, I mean, you couldn't  
25 see the gun box under the bed, could you?

1 A No, sir.

2 Q So how did you find or locate the box?

3 A Got on my knees and looked underneath the bed, sir.

4 Q You looked underneath the bed?

5 A Correct.

6 Q And in relation to the bed that was closest to you as you  
7 entered, how far would you say the gun box was under the bed?

8 A At the headboard to the right of the bed, sir.

9 Underneath the bed to the very right.

10 Q I'm sorry?

11 A Underneath the headboard, it was to the far right.

12 Q To the far right. So did you have to get on your knees  
13 and reach out your hand and pull it to you?

14 A Yes, sir.

15 Q In regards to the mail that was shown to the ladies and  
16 gentlemen of the jury, one was a Time Warner Cable bill; is  
17 that right?

18 A Correct, sir.

19 Q And what was the other document, piece of mail?

20 A It was blurry, sir. I'm not sure. It was another piece  
21 of mail that was inside the house.

22 Q Okay. Did you have an occasion to actually open the  
23 letter or bills --

24 A No, sir.

25 Q -- and look at them? You didn't do that?

1 A No, sir.

2 Q So you don't know what date was on them; is that right?

3 A Correct.

4 Q There were photographs that were shown to the ladies and  
5 gentlemen of the jury that depicted a closet with -- that  
6 showed clothing; do you remember that?

7 A Yes, sir.

8 Q And looked like a lot of Jordan, Air Jordans, would that  
9 be fair?

10 A Tennis shoes, yes, sir.

11 Q Do you know whose shoes they were? You don't know, do  
12 you?

13 A Only person that was --

14 Q I'm sorry.

15 A The male subject that was inside the house, sir.

16 Q Okay. Well, but, did you ask Mr. Coleman, are these your  
17 shoes? You didn't ask him that, did you?

18 A I never interviewed Mr. Coleman, sir.

19 Q Okay. So you're assuming that they were his; isn't that  
20 right?

21 A Correct, sir.

22 Q Okay. And the clothes, did you have a chance to look at  
23 the size or not?

24 A I did not.

25 Q Sir?

1 A I did not.

2 MR. BUTLER: If I could have a moment please, Your  
3 Honor.

4 THE COURT: You may.

5 Q At some point once you seized the weapon and you  
6 completed your property sheet, okay, were you able to  
7 determine who purchased it?

8 A I didn't do that initial -- I filled it out and I did  
9 not -- I think Detective Beaver has that information, sir.

10 MR. BUTLER: Okay. Mr. Kaufman, could you put the  
11 property sheet back up with the weapon?

12 MR. KAUFMAN: (Complies.)

13 MR. BUTLER: Thank you.

14 Q Now Detective Spears, do you see Government's 10a on the  
15 screen?

16 A Yes, sir.

17 Q And does it appear -- I mean, you completed the top part  
18 of this; is that correct?

19 A That's correct, sir.

20 Q And then you turn it into property control?

21 A Correct.

22 Q And property control is down in the police department --  
23 is that the first floor or the basement?

24 A The basement, sir.

25 Q Okay. Securest facility, correct?

1 A Correct.

2 Q Now, when you look down to the bottom at 3/9/11, do you  
3 see that?

4 A Yes, sir.

5 Q Okay. It says -- it says Sewell transported it to the  
6 lab; is that right, about 8:30?

7 A Yes, sir.

8 Q Then it says, R. Scott examined it, see that?

9 A Correct, sir.

10 Q Look at the top part. Did you fill this in? It says,  
11 item -- I don't know if that's 100 or 00. Do you see that  
12 down at the bottom?

13 A Can you repeat that, sir?

14 Q Can you bring it all the way down?

15 It says, quantity two. Two swabs from grip of weapon.  
16 Do you see that?

17 Now do you know that the weapon was swabbed?

18 A I think that's what that means, sir.

19 Q Okay. And it says, offense involved was trafficking  
20 marijuana, correct?

21 A Yes, sir.

22 Q But I thought you said it was .6 grams, right?

23 A Yes, sir.

24 Q Okay.

25 MR. BUTLER: Thank you, Mr. Kaufman.

1 Q Now you didn't seize everything in that unit, did you?

2 A Say that again, sir?

3 Q You didn't seize everything that was in that unit?

4 A Correct, sir.

5 Q Now you indicated during the direct examination that you  
6 saw some Ziploc bags in the unit 115, correct?

7 A Correct, sir.

8 Q But you didn't see any marijuana residue around the bags,  
9 did you?

10 A Correct, sir.

11 Q Didn't see any marijuana in the bags, did you?

12 A Correct.

13 Q They were just bags, correct?

14 A Correct.

15 Q And they were the kind of bags that normally people have  
16 put sandwiches in or other types of food products or whatever  
17 they want to put in; is that correct?

18 A Yes, sir.

19 Q (Indicating.)

20 A Correct.

21 Q Now they were the smaller bag, they weren't a large  
22 gallon bag, were they?

23 A I'm not 100 percent sure, sir.

24 Q Well, it wasn't the type of bag that you could put a  
25 pound of marijuana in; isn't that right?

1 A If I could see the picture again, sir.

2 MR. BUTLER: Yes, sir. Would you, Mr. Kaufman.

3 THE WITNESS: That's correct, sir.

4 MR. BUTLER: Thank you, Mr. Kaufman.

5 Q And this is in the kitchen; isn't that right?

6 A Yes, sir.

7 Q Now the photograph that you -- thank you -- Mr.

8 Kaufman -- that you identified, the photograph of Mr. Kaufman  
9 with the other -- I think it was three other people, you  
10 remember that photograph?

11 A Yes, sir.

12 Q Well, do you know those another people?

13 A Two of them, sir.

14 Q Okay. And who are the two that you know?

15 A Mr. Davis and Darty.

16 Q Okay. And did you know that Mr. Davis was from  
17 California?

18 A No, sir.

19 Q And Mr. Darty was from California? Did you know that?

20 A No, sir.

21 Q But did you know Mr. Davis or Mr. Darty personally?

22 A No, sir.

23 Q You learned their names through this investigation; is  
24 that right?

25 A Correct, sir.

1           MR. BUTLER: If I can just have a moment, Your  
2 Honor?

3           THE COURT: You may.

4           MR. BUTLER: Thank you, very much, Your Honor.  
5 I have no further questions.

6           THE COURT: Any redirect?

7           MR. KAUFMAN: Yes, Your Honor.

8           REDIRECT EXAMINATION

9 BY MR. KAUFMAN:

10 Q Detective Spears, going back to 9j, how much marijuana do  
11 you believe you could get into one of these freezer bags?

12 A A couple ounces, sir.

13 Q And would it depend on whether it's Kush or regular grade  
14 marijuana?

15 A Yes.

16 Q How would it vary?

17 A Compressed size marijuana or what we call Mexican  
18 marijuana is a little bit more compact, compressed together  
19 where you could get more in there. Kush or high-grade  
20 marijuana is the -- almost like popcorn, so it is real fluffy,  
21 so you may not be able to get as much in there.

22 Q Now you were asked why on Government's Exhibit 10a, in  
23 the middle, you were asked about how you'd written down  
24 trafficking marijuana. Why did you put that there?

25 A Based on the marijuana that we seen come out of the

1 residence there.

2 MR. BUTLER: Objection.

3 THE COURT: Overruled.

4 THE WITNESS: That was on the traffic stop, sir.

5 Q (Mr. Kaufman) Now, the defense lawyer asked you about  
6 seeing Mr. Coleman possessing firearms. Based on the  
7 circumstances of this case, are you aware of Mr. Coleman  
8 possessing a firearm in his residence?

9 MR. BUTLER: Objection.

10 THE COURT: Sustained as to a legal conclusion.

11 I'll sustain it as to form.

12 Q (Mr. Kaufman) Based on your training and experience and  
13 the circumstances of this case, can you clarify when you were  
14 asked about possession, if in fact your testimony is that Mr.  
15 Coleman possessed the firearm?

16 MR. BUTLER: Objection.

17 THE COURT: I'll sustain the question. Ask to you  
18 move on to a different area.

19 Q (Mr. Kaufman) How many bedrooms are in unit 115 at 5425  
20 Closeburn. Do you recall off the top of your head?

21 A I think it was two, sir.

22 Q And throughout the entire unit, how many beds were in all  
23 of those -- all the rooms in the unit?

24 A One bed, sir.

25 Q Just the one bed where you found the gun?

1 A Correct, sir.

2 Q You were just asked about the contents of the evidence  
3 bags that you seized with the documents.

4 Is it standard operating procedure to seize the documents  
5 and review all the documents on scene?

6 A No, sir.

7 Q And does that depend also on how many documents there  
8 are?

9 A Correct.

10 Q What is the norm when you have a large number of  
11 documents?

12 A A lot of times you seize it and then the case agent or  
13 the person in charge of the case gets it and goes through all  
14 the paperwork, sir.

15 Q The defense lawyer asked you if you knew that if Mr.  
16 Coleman knew the combination to the safe.

17 Are you saying that he didn't give you the combination to  
18 the safe?

19 A Correct.

20 Q Do you actually know whether he knew the combination of  
21 the safe?

22 A No, sir.

23 Q You were asked about the search warrant and what you were  
24 trying to find during the execution of the search warrant. Do  
25 you remember that question?

1 A Correct.

2 Q What if anything else were you searching for during the  
3 execution of the search warrant? What was authorized, do you  
4 remember?

5 A Not right off hand, sir. If I can see --

6 Q I'm sorry?

7 A If I could see the search warrant, sir.

8 MR. KAUFMAN: It's been previously provided to  
9 defense counsel, now marked as Government Exhibit 63. I'm  
10 going to add on to the list. It's a four-page document.

11 Do you recognize this document, Exhibit 63 for  
12 identification?

13 A Yes, sir. It's a copy of the search warrant, sir.

14 Q And without reading from the document, can you tell me in  
15 reviewing it if it refreshes your recollection as to what you  
16 were authorized to search for that you were seeking  
17 authorization to search for?

18 A Yes.

19 Q All right. I'm retrieving 63. If you're still  
20 refreshed, can you tell the jurors what you were seeking  
21 authorization for and obtained from the court?

22 A Marijuana, firearms, beepers, cellphones, evidence of  
23 ownership of the property and paraphernalia as well.

24 Q All those items listed, why were you seeking all those  
25 types of items?

1 A That was what we call tools of the trade, sir. Basically  
2 what normal people that's involved in narcotics will probably  
3 have in their residence, sir.

4 Q You were asked about in whose name the apartment was  
5 leased. Based on your training and experience, how often do  
6 you find that drug traffickers actually have an apartment  
7 leased in their own name?

8 A Very rare.

9 Q Would that apply -- how often do you find that vehicles  
10 are registered in the name of the actual drug trafficker?

11 A Very rare, sir.

12 Q You were asked about being able to see what was coming in  
13 and out of the apartment. And I believe you described the  
14 structure of the interior of the multiple dwelling unit -- by  
15 the way, about how many floors is 5425 Closeburn?

16 A I'm not sure.

17 Q Do you recall approximately how many were on each floor?

18 A No, sir.

19 Q Were you able -- were you able to see -- from the  
20 exterior of the building -- were you able to see the  
21 underground parking area from that vantage point?

22 A Say that one more time, sir?

23 Q When you're outside of 5425 Closeburn looking at the  
24 building, are you able from that vantage point to see inside  
25 the underground parking lot?

1 A Yes, sir.

2 Q And how would you look inside what was going -- if you  
3 wanted to see activity inside the underground parking lot, how  
4 would you -- what would you have to do to see that?

5 A Go up to, I think it was kind of like a gate. I think  
6 you have to walk up to and look through the cracks -- through  
7 the gate, sir.

8 Q When you say the cracks or the grate, can you describe  
9 what you're talking about?

10 A I think it was -- had, like, a garage door that opens up.  
11 And I think it was where you can look through and see vehicles  
12 that was in the parking lot.

13 Q And that's if you're up to the garage area with the  
14 garage door opened; is that correct?

15 A I think it could be down as well. I think you can  
16 actually see through. It wasn't like an enclosed garage.

17 Q At any point during the surveillance were you actually up  
18 to that area to look inside of the garage?

19 A No, sir.

20 Q And is there a reason why you didn't do that during  
21 surveillance leading up to the search warrant execution?

22 A I never was close to the apartment, sir. I was further  
23 out.

24 Q Is there a reason why you're aware of yourself or members  
25 of your team not going up that close to the apartment?

1 A Because Agent MacDonald had the eye. Agent MacDonald had  
2 the eye. Was the only one in the parking lot.

3 Q Are you familiar with the term law enforcement "being  
4 burned"?

5 MR. BUTLER: Objection.

6 THE COURT: Sustained as to the leading.

7 MR. KAUFMAN: I'll move on actually, Your Honor.

8 Q I'd like to show you what's been admitted as 14g. You  
9 already identified Mr. Coleman. If you could work from the  
10 left to the right. You stated a couple of other names.

11 Can you tell us the tallest individual, which one is  
12 that?

13 A Mr. Davis, the third guy with the gray shirt is Darty. I  
14 do not know who the other subject is.

15 Q So Jerry Davis is in the dark shirt, the tall man with  
16 the baseball cap, is that accurate?

17 A Correct.

18 Q And then next to him in the gray is Darren Darty?

19 A Yes.

20 Q Prior to November 2nd, had you seen Mr. Darty before?

21 A Correct, yes, sir.

22 Q When was that?

23 A It was in the year of 2009 when he was picked up for a  
24 marijuana load, sir.

25 Q How big was that load, if you recall?

1 A I think it was 300 -- 300 some pounds.

2 MR. BUTLER: Objection. Move to strike.

3 THE COURT: Overruled.

4 MR. KAUFMAN: Nothing further, Your Honor.

5 MR. BUTLER: May I?

6 THE COURT: Recross?

7 MR. BUTLER: Yes, sir.

8 RECROSS EXAMINATION

9 BY MR. BUTLER:

10 Q Now, Detective Spears, now when you say you saw Mr. Darty  
11 with this, I think you said 300 pounds of marijuana, you  
12 didn't see Mr. Coleman, did you?

13 A Correct, sir.

14 Q Sir?

15 A That's correct. I did not see him.

16 Q And you indicated that -- I thought you said based on the  
17 marijuana that you saw come from the residence of Closeburn.  
18 But you never saw any marijuana come from unit 115 on November  
19 2nd of 2010, did you?

20 A That's correct, sir.

21 Q Because you were down how many miles away, or half a  
22 mile?

23 A Half a mile to a mile.

24 Q Half a mile. I'm sorry. So you were a half a mile away  
25 so you don't know what was going on at Closeburn until you got

1 there, correct?

2 A Well --

3 Q For your own personal knowledge?

4 A Correct, sir.

5 Q And your testimony concerning the garage and looking  
6 through the cracks, that's based on your observation -- and  
7 correct me if I'm wrong -- the only one time that you went  
8 over there, and that's to execute the search warrant; is that  
9 right?

10 A Correct. Well, I helped out that day on surveillance,  
11 but --

12 Q I'm sorry.

13 A That's correct, sir.

14 MR. BUTLER: All right. Thank you.

15 I have no further questions.

16 THE COURT: You may step down, be excused.

17 Do you have a short witness?

18 MR. KAUFMAN: We have two witnesses that could be  
19 short.

20 THE COURT: All right. Call them.

21 MR. KAUFMAN: First we call Special Agent Darren  
22 Solomon with Alcohol, Tobacco and Firearms.

23 DARREN SOLOMON, GOVERNMENT WITNESS, SWORN

24 DIRECT EXAMINATION

25 BY MR. KAUFMAN:

1 Q Good afternoon.

2 A Good afternoon.

3 Q Could you please tell the jury your full name and also  
4 where you work?

5 A My name is Darren Andrew Solomon. I'm a special agent  
6 with the Bureau of Alcohol, Tobacco, Firearms and Explosives.

7 Q How long have you been with ATF?

8 A Since 2001.

9 Q Prior to that do you have law enforcement experience?

10 A I do.

11 Q How many years were you in law enforcement before that?

12 A I was a police officer, then later a detective with the  
13 Charlotte-Mecklenburg police department for eight years.

14 Q What are current duties with ATF?

15 A To investigate possible violations of federal cigarette,  
16 alcohol and tobacco, explosives and arson laws.

17 Q Are you in particular knowledgeable about firearms  
18 identification and places of manufacture for firearms?

19 A Yes, I've received training in that.

20 Q Can you describe briefly some of that training?

21 A Sure. The training starts when we go through the ATF  
22 academy when we're first hired. After becoming an ATF agent,  
23 I became a firearm instructor and completed that training.  
24 I've also completed training in firearms interstate nexus in  
25 our facility in West Virginia. I've also completed ammunition

1 nexus training which was held in various states throughout the  
2 midwest.

3 Q Can you tell the jury how one identifies the place of  
4 manufacture for a firearm and determines the identification of  
5 a firearm as well?

6 A Sure. Firearms in the United States, according to  
7 federal law, have to have certain markings. They're required  
8 to have a manufacturer, a model if there is one, a serial  
9 number and a caliber. Those are to be etched into the frame.  
10 If the firearm is imported, the name of the importer also has  
11 to be etched into the frame.

12 So when I look at a firearm, I look initially for those  
13 markings to see manufacture, make, model, serial, and caliber.

14 After I determine those markings, I'll then examine  
15 for -- we call them secondary markings. It could be a proof  
16 mark from a certain factory. It could be a particular mark  
17 from a European country, or it could be a secret number that's  
18 put on the firearm by the manufacture.

19 Q All right. Are you familiar with the definition of a  
20 firearm for federal purposes under 18 U.S. Code Section 921?

21 A I am.

22 Q Can you actually tell us right now what that definition  
23 is?

24 A Sure. The definition has four parts. It's any type of  
25 weapon that is designed to or could be readily assembled to

1 fire a projectile by means of an explosive. It's also the  
2 frame or receiver of any such weapon. Any type of firearm  
3 suppresser or muffler, or any type of destructive device like  
4 a grenade.

5 Q Have you been qualified previously in federal court as an  
6 expert in the study of the identification of firearms and  
7 place of manufacture?

8 A I have, in both this district and the Middle District of  
9 North Carolina.

10 Q Approximately how many times?

11 A Approximately 12.

12 MR. KAUFMAN: Your Honor, at this time we would  
13 tender Agent Solomon as expert in the identification of  
14 firearms and place of manufacturer.

15 THE COURT: Any objection?

16 MR. BUTLER: No objection.

17 THE COURT: He will be allowed to offer an opinion  
18 in those areas.

19 MR. KAUFMAN: Thank you, Your Honor.

20 Q Agent Solomon, were you asked to review three firearms in  
21 this case to determine if they were firearms, identifying  
22 them, and determining their place of manufacture?

23 A I was.

24 Q I would like to show you what's been admitted already as  
25 Government's 10a. And do you recognize this form?

1 A This looks like a Charlotte-Mecklenburg police property  
2 report.

3 Q And I'm now increasing the size of the last entry under  
4 the chain of custody. Do you recognize the name in there?

5 A Yes. Yes, I see my name.

6 Q Okay. And comparing that with what's been admitted  
7 already as Government's 14a, do you recognize this firearm as  
8 one of the ones that you have reviewed?

9 A Yes, this is one.

10 Q All right. And on the screen I'll show you what's been  
11 admitted as Government's 17a, page 1, and page 2. And I'll  
12 also show you what has already been admitted as Government's  
13 17c and 17b. And actually on screen for identification  
14 purposes show you Exhibit 20.

15 Without telling us what the contents are, do you  
16 recognize what's being shown on Exhibit 20?

17 A Yes. This a report I prepared after examining the three  
18 firearms.

19 Q And in your report, do you actually indicate what the  
20 serial numbers are for the firearm?

21 A Yes, I do on all three.

22 Q And the -- actually I'll bring back up 14a for that  
23 matter. If you could tell us if all three of these firearm  
24 serial numbers match up with the report?

25 A Yes, they do.

1 Q Thank you.

2 Now these firearms that you examined, did they meet the  
3 definition of firearms for federal purposes?

4 A They do.

5 Q And did you perform your usual review of the  
6 identification and place of manufacturer of these firearms?

7 A I did.

8 Q Did you form conclusions?

9 A I did.

10 Q What were those conclusions?

11 A That the Glock pistol was manufactured in the State of  
12 Georgia. That the CZ pistol was manufactured in the country  
13 of Czech Republic. And that the Smith and Wesson was  
14 manufactured in the State -- or the Commonwealth, I'm sorry,  
15 of Massachusetts.

16 Q And based on those facts, is it your opinion that they  
17 traveled in and affected interstate commerce?

18 A They did.

19 MR. KAUFMAN: At this time, Your Honor, seek to  
20 admit and publish Exhibit 20.

21 THE COURT: Any objection?

22 MR. BUTLER: Objection, Your Honor.

23 THE COURT: Basis.

24 MR. BUTLER: We would object on the grounds that  
25 there's been insufficient connection to the manufacturer.

1           THE COURT: Very well. Overruled. Let them be  
2 admitted.

3           MR. KAUFMAN: Thank you, Your Honor.

4           (Government's Exhibit No. 20 was received into  
5 evidence and published.)

6 Q        And in addition, Agent Solomon, have you reviewed -- can  
7 you explain what a gun trace is?

8 A        A gun trace is when law enforcement will contact ATF and  
9 request a gun trace based on the information, usually from a  
10 gun that they've recovered.

11          Our tracing facility is in West Virginia, and what  
12 happens at that point is, the law enforcement official  
13 contacting ATF will give one of our personnel the information  
14 from the gun, information that I've previously spoken about,  
15 the manufacturer, serial, the caliber, and importer, if there  
16 is one.

17          Our personnel at the tracing center will then take that  
18 information and they will work backwards through the retail  
19 chain. What I mean by that is, for example, we say a Colt  
20 pistol, that's what the law enforcement officer wants to run a  
21 trace on. He will give the information about the Colt pistol  
22 to one of our personnel. Our personnel will then start with  
23 that manufacturer, because that's the genesis of the firearm.  
24 They will contact Colt and say this weapon was manufactured by  
25 you. Here's the serial number. What happened with the

1 weapon? Colt will then say --

2 MR. BUTLER: Objection.

3 THE COURT: Overruled.

4 THE WITNESS: The personnel ask the manufacturer,  
5 what happened with the gun, basically. The manufacturer will  
6 say, we had this gun and it was shipped to the following  
7 location. Either to the military, law enforcement, or to a  
8 wholesaler for further progress down the retail chain.

9 Based upon that information, if it goes to a  
10 wholesaler, then our personnel then call the wholesaler and  
11 ask them the same questions they asked the manufacturer. You  
12 received this gun from Colt, what did you do with the gun?

13 At that point the wholesaler will do actually what  
14 the manufacturer did. We got the gun on this date. We  
15 shipped it out to this place, which is usually the retailer.

16 Our personnel will then contact the retailer and  
17 say, we've been informed that you received this gun on  
18 whatever date. They will ask what they have to do with the  
19 gun.

20 The retailer will then consult their records, and  
21 based upon the required federal form that you have to fill out  
22 when you purchase a handgun, or a long gun in the United  
23 States, they will then give that information back to the  
24 personnel.

25 Our ATF personnel then compile all of that

1 information from all of the parties, and they put it on a  
2 trace summary and it's provided back to the law enforcement  
3 official who requested it.

4 Q And is that provided in a firearms trace summary  
5 document?

6 A Yes, it is.

7 Q And is that document generated, maintained in the regular  
8 course of business?

9 A Yes, it's maintained by ATF.

10 Q I would like to show you what's been marked as  
11 Government's Exhibit 42a for identification purposes. Do you  
12 recognize this?

13 A Yes. This is an ATF arms trace summary.

14 Q And do you recognize this particular one?

15 A Yes. It corresponds to the Glock pistol based on the  
16 serial number.

17 Q Is that the same Glock pistol that you just testified  
18 about?

19 A It is.

20 MR. KAUFMAN: Your Honor, we seek admission of 42a.

21 MR. BUTLER: Objection.

22 THE COURT: Basis?

23 MR. BUTLER: Same basis, Your Honor.

24 THE COURT: Overruled.

25 (Government's Exhibit No. 42a was received into

1 evidence and published.)

2 Q And the Glock, who was the purchaser of the Glock?

3 A According to this trace report it was a Stephanie Ann  
4 Peppers, as the first retail purchaser of this weapon.

5 Q I would like to show you what has been marked as 42b for  
6 identification and --

7 MR. KAUFMAN: Sorry. The Court's indulgence,  
8 please.

9 May I approach Ms. Hankins for a moment, please?

10 THE COURT: You may.

11 MR. KAUFMAN: Is it okay if it's not a full screen  
12 showing or do I need to reduce it?

13 THE COURT: Are you asking me?

14 MR. KAUFMAN: I'm sorry, Your Honor. I was asking  
15 Ms. Hankins.

16 Q This has been marked as 42b. Do you recognize -- this is  
17 a three-page document. If you want, you can tell me to scroll  
18 down.

19 A Please. Okay.

20 Q Do you recognize these documents?

21 A Yes. These are two more ATF firearm trace summaries.

22 Q Are they for the other two firearms that you just  
23 testified about?

24 A They are.

25 MR. KAUFMAN: At this time, Your Honor, we'd seek to

1 have Government's 42b admitted and published at a later time.

2 MR. BUTLER: Objection.

3 THE COURT: Overruled. Let them be admitted.

4 MR. KAUFMAN: And actually, if I may -- if I may now  
5 publish it, too?

6 THE COURT: You may.

7 (Government's Exhibit No. 42b was received into  
8 evidence and published.)

9 Q (Mr. Kaufman) So going back up to the Smith and Wesson.  
10 Do you see the purchaser information?

11 A Yes. The purchaser is listed as a Michael Owen Latham.

12 Q From South Carolina?

13 A Correct.

14 Q And with regard to the Czech firearm, is there any  
15 purchaser listed?

16 A No. No purchaser information was listed because the  
17 retailer did not return the records to ATF when they went out  
18 of business.

19 MR. KAUFMAN: Thank you. Nothing further.

20 THE COURT: Any cross?

21 MR. BUTLER: Yes, Your Honor.

22 CROSS EXAMINATION

23 BY MR. BUTLER:

24 Q Good afternoon, Detective Solomon.

25 A Good afternoon, sir.

1 Q Now, Detective Solomon, did you have an occasion in this  
2 case to become aware of a Colt .25 caliber pistol?

3 A I did not.

4 Q And so you were not asked to do a trace, a firearm trace  
5 summary on a Colt .25 pistol that was recovered from 1809  
6 Nantucket Lane, Apartment 101, the possessor was Stephanie Ann  
7 Peppers.

8 MR. KAUFMAN: Objection.

9 THE COURT: Overruled.

10 THE WITNESS: I was not asked, no.

11 Q (Mr. Butler) Now in your determination of the interstate  
12 nexus, so to speak, did you talk to anyone at the alleged  
13 manufacturer?

14 A I contacted both Glock and Smith and Wesson.

15 Q Okay. And -- okay. But did you talk to anyone?

16 A I did, a telephone conversation.

17 Q Okay. All right. Well, now, but then somebody else did  
18 this trace summary; is that right?

19 A Yes.

20 Q Okay. Who did you talk to? Do you remember?

21 A At which facility?

22 Q The Smith and Wesson?

23 A I do not remember.

24 Q When did you talk to them?

25 A Prior to doing this determination.

1 Q Okay. Well, can you give me a date?

2 A I cannot.

3 Q What about the .9 mm?

4 A Which one? Can you bring up the report on that?

5 Q Do you see the document in front of you?

6 A I do.

7 Q Did you contact that manufacturer?

8 A I did not.

9 Q Now there's no purchaser information on this one?

10 A That is correct.

11 Q And are you saying that no information was turned in?

12 A Yes. The explanation for the gap in purchaser  
13 information is narrated at the bottom of this trace, and it  
14 explains why the tracing center was not allowed -- or not able  
15 to fill in that purchaser information block.

16 Q So the licensee couldn't be located or contacted; is that  
17 correct?

18 A Yes, sir. According to that summary. Sir.

19 Q Yes, sir. And now that summary was done by someone other  
20 than you; is that right?

21 A Correct.

22 Q Now, so you didn't contact the gun shack in Walterboro,  
23 South Carolina?

24 A I did not, no.

25 Q And on this trace summary it says, possessor was Parker

1 Antron Coleman; you see that?

2 A No, sir. I don't see that portion on what's on my  
3 screen.

4 Q Do you see recovery information?

5 A Yes, sir I do.

6 Q Okay. But this is something that someone wrote down?

7 A This is the information compiled by one of our tracing  
8 personnel, yes.

9 Q Do you know who that person was?

10 A The one submitting the information?

11 Q Yes, sir.

12 A Or the one compiling it?

13 Q The one that wrote down Parker Antron Coleman was the  
14 possessor?

15 A This information would have been submitted when the  
16 firearm information is part of the submission. So it looks  
17 like James F. Beaver of the Charlotte-Mecklenburg police  
18 department, that information would have come in through his  
19 trace request.

20 Q So that's -- so in other words, it's just somebody  
21 submitted some paperwork, and somebody else taken that  
22 paperwork and filling out this form?

23 A Yes.

24 Q Is that correct?

25 A Yes.

1                   MR. BUTLER: If I could have a moment, please, Your  
2 Honor?

3                   THE COURT: You may.

4                   (Pause.)

5       Q    Now, Detective Solomon, is there a gun manufacturing  
6 company in North Carolina?

7       A    Yes, there are.

8       Q    How many?

9       A    The last list I saw was approximately a year ago, and  
10      there were 40 plus.

11      Q    Forty plus manufacturers in the State of North Carolina?

12      A    Yes.

13                  MR. BUTLER: Okay. Thank you very much.

14                  MR. KAUFMAN: Nothing further, Your Honor.

15                  THE COURT: You may step down and be excused.

16                  Members of the Jury, we're near enough our quitting  
17 point that we'll quit a minute early tonight. I want to  
18 remind you of a couple of things, one is not to talk about the  
19 case. Your family and friends may be interested in what you  
20 did in federal court, and you simply are not to talk about the  
21 case until you begin your deliberation. At that point you can  
22 talk about the case with each other.

23                  But when you go home tonight, don't talk about the  
24 case. Keep an open mind because you haven't heard all the  
25 evidence, and you haven't gotten the instructions of the

1 Court.

2 You may from time to time see participants in the  
3 trial in the corridors, because this is an old building, and  
4 everybody shares the same corridors and restrooms and things  
5 of that nature.

6 If the lawyers seem standoffish to you in any way,  
7 it's not because they're standoffish people. They're under  
8 instructions from the Court not to have any contact with you  
9 outside the courtroom.

10 And so if going home or at other points in the trial  
11 you run into them and they seem reserved, that's the  
12 explanation. So don't hold it against them in any way.

13 We'll break for the evening. If you could be back  
14 in court at 9:20, ready to come back into the courtroom at  
15 9:30, we'll start promptly at 9:30 tomorrow.

16 (The jury was escorted from the courtroom at  
17 6:00 p.m.)

18 THE COURT: Anything from either side before we  
19 break for the evening?

20 MR. KAUFMAN: No, Your Honor.

21 MR. BUTLER: No, Your Honor.

22 THE COURT: Okay. Well let's plan to be ready to go  
23 at 9:30. If there are any legal issues we need to take up  
24 before 9:30, if you would advise our chambers, we'll come in  
25 early and take care of those. But otherwise be ready to go at

1       9:30 tomorrow morning.

2           MR. KAUFMAN: Yes, Your Honor.

3           MR. BUTLER: Very well, Your Honor.

4           (The Court was in recess for the day at 6:00 p.m.)

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